

2005 IOWA CODE SUPPLEMENT

Containing

Sections of the Laws of Iowa
of a General and Permanent Nature
Enacted, Amended, Repealed or
otherwise affected by the
2005 Regular Session
of the

GENERAL ASSEMBLY OF THE
STATE OF IOWA



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PREFACE TO 2005 IOWA CODE SUPPLEMENT

This 2005 Iowa Code Supplement is published pursuant to Code chapter 2B. The Supplement includes sections of the laws of Iowa enacted, amended, repealed, or otherwise affected by the 2005 regular session of the Eighty-first Iowa General Assembly or by an earlier session if the effective date was deferred, arranged in the numerical sequence of the 2005 Iowa Code. The Supplement does not include temporary sections, such as appropriation sections, which are not to be codified.

EFFECTIVE DATES. Except as otherwise indicated in the text or in a footnote, the new sections, amendments, and repeals were effective on or before July 1, 2005. See the 2005 Iowa Acts to determine specific effective dates not shown.

NOTES. A source note following each new or amended section refers to the appropriate chapter and section number in the Iowa Acts where the new section or amendment can be found in the form it had upon passage. Repeals are indicated in the form used in the 2005 Code. A footnote may follow the source note or repeal. A footnote to an amended section usually refers only to the amended part and not necessarily to the entire section as printed. Many of the footnotes from the 2005 Code are not included but will be corrected as necessary and appear in the 2007 Code. Following the source note or footnote for a new or amended section is an explanatory note to indicate whether the section or a part of it is new, or was amended, stricken, stricken and rewritten, or renumbered.

EDITORIAL DECISIONS. If multiple amendments were enacted to a section or part of a section, all changes that were duplicative or otherwise did not appear to conflict were harmonized as required under sections 2B.13 and 4.11 of the Code. If multiple amendments conflicted, a strike or repeal prevailed over an amendment to the same material. If multiple amendments were irreconcilable, the amendment that was last or latest in date of enactment was codified as provided in section 2B.13 of the Code. At the end of this Supplement are Code editor's notes which explain the major editorial decisions. Section 2B.13 of the Code governs the ongoing revision of gender references, authorizes other editorial changes, and provides for the effective date of editorial changes.

INDEX AND TABLES. A subject matter index to new or amended sections, a table of the disposition of the 2005 Acts and any previous years' Acts codified in this Supplement, a table of corresponding sections from the 2005 Code to the 2005 Code Supplement, and conversion tables of 2005 Senate and House enactment numbers to Acts chapter numbers also appear at the end of this Supplement.

RETENTION OF CODE SUPPLEMENT VOLUMES. Users who maintain libraries of previous years' biennial hardbound Codes of Iowa should also retain the Iowa Code Supplement volumes, as the Code Supplements contain Code editor's notes, footnotes, and other aids which are not included in the subsequent hardbound Code.

Because the Iowa General Assembly meets annually, the Supplement also serves as the only record of the original codification of statutes effective in an odd-numbered year if those statutes are amended or repealed in the next even-numbered year.

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IOWA CODE SUPPLEMENT

2005

CHAPTER 2

GENERAL ASSEMBLY

2.10 Salaries and expenses — members of general assembly.

Members of the general assembly shall receive salaries and expenses as provided by this section.

1. Every member of the general assembly except the presiding officer of the senate, the speaker of the house, the majority and minority floor leader of each house, and the president pro tempore of the senate and speaker pro tempore of the house, shall receive an annual salary of twenty thousand one hundred twenty dollars for the year 1997 and subsequent years while serving as a member of the general assembly. In addition, each such member shall receive the sum of eighty-six dollars per day for expenses of office, except travel, for each day the general assembly is in session commencing with the first day of a legislative session and ending with the day of final adjournment of each legislative session as indicated by the journals of the house and senate, except that if the length of the first regular session of the general assembly exceeds one hundred ten calendar days and the second regular session exceeds one hundred calendar days, the payments shall be made only for one hundred ten calendar days for the first session and one hundred calendar days for the second session. Members from Polk county shall receive sixty-five dollars per day. Each member shall receive a two hundred dollar per month allowance for legislative district constituency postage, travel, telephone costs, and other expenses. Travel expenses shall be paid at the rate established by section 8A.363 for actual travel in going to and returning from the seat of government by the nearest traveled route for not more than one time per week during a legislative session unless the general assembly otherwise provides.

2. The speaker of the house, presiding officer of the senate, and the majority and minority floor leader of each house shall each receive an annual salary of thirty-one thousand thirty dollars for the year 1997 and subsequent years while serving in

that capacity. The president pro tempore of the senate and the speaker pro tempore of the house shall receive an annual salary of twenty-one thousand two hundred ninety dollars for the year 1997 and subsequent years while serving in that capacity. Expense and travel allowances shall be the same for the speaker of the house and the presiding officer of the senate, the president pro tempore of the senate and the speaker pro tempore of the house, and the majority and minority leader of each house as provided for other members of the general assembly.

3. When a vacancy occurs and the term of any member of the general assembly is not completed, the member shall receive a salary or compensation proportional to the length of the member's service computed to the nearest whole month. A successor elected to fill such vacancy shall receive a salary or compensation proportional to the successor's length of service computed to the nearest whole month commencing with such time as the successor is officially determined to have succeeded to such office.

4. The director of the department of administrative services shall pay the travel and expenses of the members of the general assembly commencing with the first pay period after the names of such persons are officially certified. The salaries of the members of the general assembly shall be paid pursuant to any of the following alternative methods:

- a. During each month of the year at the same time state employees are paid.
- b. During each pay period during the first six months of each calendar year.
- c. During the first six months of each calendar year by allocating two-thirds of the annual salary to the pay periods during those six months and one-third of the annual salary to the pay periods during the second six months of a calendar year. Each member of the general assembly shall file with the director of the department of administra-

tive services a statement as to the method the member selects for receiving payment of salary. The presiding officers of the two houses of the general assembly shall jointly certify to the director of the department of administrative services the names of the members, officers, and employees of their respective houses and the salaries and mileage to which each is entitled. Travel and expense allowances shall be paid upon the submission of vouchers to the director of the department of administrative services indicating a claim for the same.

5. In addition to the salaries and expenses authorized by this section, a member of the general assembly shall be paid eighty-six dollars per day, and necessary travel and actual expenses incurred in attending meetings for which per diem or expenses are authorized by law for members of the general assembly who serve on statutory boards, commissions, or councils, and for standing or interim committee or subcommittee meetings subject to the provisions of section 2.14, or when on authorized legislative business when the general assembly is not in session. However, if a member of the general assembly is engaged in authorized legislative business at a location other than at the seat of government during the time the general assembly is in session, payment may be made for the actual transportation and lodging costs incurred because of the business. Such per diem or expenses shall be paid promptly from funds appropriated pursuant to section 2.12.

6. If a special session of the general assembly is convened, members of the general assembly shall receive, in addition to their annual salaries, the sum of eighty-six dollars per day for each day the general assembly is actually in special session, and the same travel allowances and expenses as authorized by this section. A member of the general assembly shall receive the additional per diem, travel allowances and expenses only for the days of attendance during a special session.

7. A member of the general assembly may return to the state treasury all or a part of the salary, per diem, or expenses paid to the member pursuant to this section. The member may specify the public use for the returned money. A member has no income tax liability for that portion of the member's salary or per diem which is returned to the state treasury pursuant to this subsection. The administrative officer of each house shall provide a form at the convening of each legislative session to allow legislators to return any portion of their salaries or expenses according to this section.

8. Commencing upon the convening of the Seventy-eighth General Assembly in January 1999, the annual salaries of members and officers of the general assembly, as the annual salaries existed during the preceding calendar year, shall be adjusted by an amount equal to the average of the annual cost-of-living pay adjustments negotiated

for the members of the collective bargaining units represented by the state police officers council labor union, the American federation of state, county, and municipal employees, and the Iowa united professionals for the fiscal year beginning July 1, 1997. For the calendar year 2000, during the month of January, the annual salaries of members and officers of the general assembly shall be adjusted by an amount equal to the average of the annual cost-of-living pay adjustments received by the members of those collective bargaining units for the fiscal year beginning July 1, 1998. The annual salaries determined for the members and officers as provided in this section for the calendar year 2000 shall remain in effect for subsequent calendar years until otherwise provided by the general assembly.

For future amendments to subsections 1, 2, 5, and 6, effective upon the convening of the Eighty-second General Assembly in January 2007, see 2005 Acts, ch 177, §14, 16

Section not amended; footnote added

2.40 Membership in state insurance plans.

1. A member of the general assembly may elect to become a member of a state group insurance plan for employees of the state established under chapter 509A subject to the following conditions:

a. The member shall be eligible for all state group insurance plans on the basis of enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20.

b. The member shall pay the premium for the plan selected on the same basis as a full-time state employee excluded from collective bargaining as provided in chapter 20.

c. The member shall authorize a payroll deduction of the premium due according to the member's pay plan selected pursuant to section 2.10, subsection 4.

d. The premium rate shall be the same as the premium rate paid by a state employee for the plan selected.

A member of the general assembly may elect to become a member of a state group insurance plan. A member of the general assembly may continue membership in a state group insurance plan without reapplication during the member's tenure as a member of consecutive general assemblies. For the purpose of electing to become a member of the state health or medical service group insurance plan, a member of the general assembly has the status of a "new hire", full-time state employee following each election of that member in a general or special election, or during the first subsequent annual open enrollment. In lieu of membership in a state health or medical group insurance plan, a member of the general assembly may elect to receive reimbursement for the costs paid by the member for a continuation of a group coverage (COBRA) health or medical insurance plan. The

member shall apply for reimbursement by submitting evidence of payment for a COBRA health or medical insurance plan. The maximum reimbursement shall be no greater than the state's contribution for health or medical insurance family plan II. A member of the general assembly who elects to become a member of a state health or medical group insurance plan shall be exempted from preexisting medical condition waiting periods. A member of the general assembly may change programs or coverage under the state health or medical service group insurance plan during the month of January of odd-numbered years, but program and coverage change selections shall be subject to the enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20. A person who has been a member of the general assembly for two years and who has elected to be a member of a state health or medical group insurance plan may continue to be a member of such state health or medical group insurance plan by requesting continuation in writing to the finance officer within thirty-one days after leaving office. The continuing former member of the general assembly shall pay the total premium for the state plan and shall have the same rights to change programs or coverage as state employees. In the event of the death of a former member of the general assembly who has elected to continue to be a member of a state health or medical group insurance plan, the surviving spouse of the former member whose insurance would otherwise terminate because of the death of the former member may elect to continue to be a member of such state health or medical group insurance plan by requesting continuation in writing to the finance officer within thirty-one days after the death of the former member. The surviving spouse of the former member shall pay the total premium for the state plan and shall have the same rights to change programs or coverage as state employees. For purposes of this paragraph, health or medical programs or coverage and dental programs or coverage are to be treated separately and the rights to change programs or coverage apply only to the type of programs or coverage that the continuing former member has elected to continue. This paragraph shall not be construed to permit a former member to become a member of a state health or medical group insurance plan providing programs or coverage of a type that the former member did not elect to continue pursuant to this paragraph.

2. A part-time employee of the general assembly

may elect to become a member of a state group insurance plan for employees of the state established under chapter 509A subject to the following conditions:

a. The part-time employee shall be eligible for all state group insurance plans on the basis of enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20 and shall have the same rights to change programs or coverage as are afforded such state employees.

b. The part-time employee shall pay the total premium.

c. A part-time employee may continue membership in a state group insurance plan without reapplication during the employee's employment during consecutive sessions of the general assembly. For the purpose of electing to become a member of the state group insurance plan, a part-time employee of the general assembly has the status of a "new hire", full-time state employee when the employee is initially eligible or during the first subsequent enrollment change period.

d. (1) A part-time employee of the general assembly who elects membership in a state group insurance plan shall state each year whether the membership is to extend through the interim period between consecutive sessions of the general assembly.

(2) If the membership is to extend through the interim period the part-time employee shall authorize payment of the total annual premium through direct payment of the monthly premium for the plan selected to the state group insurance plan provider.

(3) The part-time employee shall notify the finance officer within thirty-one days after the conclusion of the general assembly whether the person's decision to extend the membership through the interim period is confirmed.

e. A member of a state group insurance plan pursuant to this subsection shall have the same rights upon final termination of employment as a part-time employee as are afforded full-time state employees excluded from collective bargaining as provided in chapter 20.

f. A part-time employee of the general assembly who elects membership in a state life insurance plan shall authorize payment of the premium through a total of two payments during each annual period made to the department of administrative services on dates prescribed by the department.

2005 Acts, ch 52, §1
Subsection 1, unnumbered paragraph 2 amended

CHAPTER 2B

LEGAL PUBLICATIONS

2B.5 Duties of administrative code editor.

The administrative code editor shall:

1. Cause the Iowa administrative bulletin and the Iowa administrative code to be published as provided in chapter 17A.

2. Cause the Iowa court rules to be published and distributed, as directed by the supreme court after consultation with the legislative council. The Iowa court rules shall consist of all rules prescribed by the supreme court. The Iowa court rules and supplements to the court rules shall be priced as provided in section 2A.5.

3. Cause to be published annually a correct list of state officers and deputies; members of boards and commissions; justices of the supreme court, judges of the court of appeals, and judges of the district courts including district associate judges and judicial magistrates; and members of the general assembly. The office of the governor shall cooperate in the preparation of the list.

4. Notify the administrative rules coordinator if a rule is not in proper style or form.

5. Perform other duties as directed by the director of the legislative services agency, the legislative council, or the administrative rules review committee and as provided by law.

2005 Acts, ch 19, §1
See §7.17, 17A.6
Subsection 3 amended

2B.12 Iowa Code and Code Supplement.

1. A new Iowa Code shall be issued as soon as possible after the final adjournment of the second regular session of the general assembly. A new Code Supplement shall be issued as soon as possible after the first regular session of the general assembly. A Code Supplement may be issued after a special session of the general assembly or as required by the legislative council.

2. The entire Iowa Code shall be maintained on a computer database which shall be updated as soon as possible after each session of the general assembly. The Iowa Code and Code Supplement shall be prepared and printed on a good quality of paper in one or more volumes, in the manner determined by the Iowa Code editor in accordance with the policies of the legislative council, as provided in section 2.42.

3. An edition of the Iowa Code or Code Supplement shall contain each Code section in its new or amended form. However, a new section or amendment which does not take effect until after the probable publication date of a succeeding Iowa Code or Code Supplement may be deferred for publication in that succeeding Iowa Code or Code Supplement. The sections shall be inserted in

each edition in a logical order as determined by the Iowa Code editor in accordance with the policies of the legislative council.

4. Each section of an Iowa Code or Code Supplement shall be indicated by a number printed in boldface type and shall have an appropriate head-note printed in boldface type.

5. Appropriate historical references or source notes may be placed following each section.

6. The Iowa Code published after the second regular session of the general assembly shall include:

- a. An analysis of the Code by titles and chapters.
- b. The Declaration of Independence.
- c. The Articles of Confederation.
- d. The Constitution of the United States.
- e. The laws of the United States relating to the authentication of records.

f. The Constitution of the State of Iowa, original and codified versions.

g. The Act admitting Iowa into the union as a state.

h. A chapter title, number, and chapter analysis at the head of each chapter. The chapter number shall be printed at the top of each page.

i. All of the statutes of Iowa of a general and permanent nature, except as provided in subsection 3.

j. A comprehensive index and a summary index covering the Constitution and statutes of the State of Iowa.

7. The Code Supplement published after the first regular session of the general assembly shall include:

a. All of the statutes of Iowa of a general and permanent nature which were enacted or amended during that session, except as provided in subsection 3, and an indication of all sections repealed during that session, and any amendments to the Constitution of the State of Iowa approved by the voters at the preceding general election.

b. A chapter title and number for each chapter or part of a chapter included.

c. An index covering the material included.

8. A Code or Code Supplement may include appropriate tables showing the disposition of Acts of the general assembly, the corresponding sections from edition to edition of a Code or Code Supplement, and other reference material as determined by the Iowa Code editor in accordance with policies of the legislative council.

2005 Acts, ch 19, §2
See also §2.42
Subsection 8 amended

2B.17 Citations — official statutes.

1. The permanent and official printed versions

of the Iowa Codes and Code Supplements published subsequent to the adjournment of the 1982 regular session of the Sixty-ninth General Assembly shall be known and may be cited as “Iowa Code chapter (or section)”, or “Iowa Code Supplement chapter (or section)”, inserting the appropriate chapter or section number. If the year of edition is needed, it may be inserted before or after the words “Iowa Code” or “Iowa Code Supplement”. In Iowa publications, the word “Iowa” may be omitted if the meaning is clear.

2. The Acts of each general assembly shall be known as “Acts of the General Assembly, Session, Chapter (or File No.), Section” (inserting the appropriate numbers) and shall be cited as “. . . . Iowa Acts, chapter (or File No.), section” (inserting the appropriate year, chapter or file number, and section number).

3. The official printed versions of the Iowa Code, Iowa Code Supplement, and Iowa Acts published under authority of the state are the only authoritative publications of the statutes of this state. Other publications of the statutes of the state shall not be cited in the courts or in the reports or rules of the courts. The Iowa Code editor is the custodian of the official printed versions of the Iowa Code, Iowa Code Supplement, and Iowa Acts and may attest to and authenticate any por-

tion of those official printed versions for purposes of admitting a portion of the official printed version in any court or office of any state, territory, or possession of the United States or in a foreign jurisdiction.

4. The Iowa administrative code and the Iowa administrative bulletin shall be cited as provided in section 17A.6.

5. The printed version of the Iowa administrative code is the permanent publication of administrative rules in this state and the Iowa administrative bulletin and the Iowa administrative code published pursuant to chapter 17A are the official publications of the administrative rules of this state, and are the only authoritative publications of the administrative rules of this state. Other publications of the administrative rules of this state shall not be cited in the courts or in the reports or rules of the courts. The Iowa administrative code editor is the custodian of the official printed versions of the Iowa administrative code and the Iowa administrative bulletin and may attest to and authenticate any portion of those official printed versions for purposes of admitting a portion of the official printed version in any court or office of any state, territory, or possession of the United States or in a foreign jurisdiction.

2005 Acts, ch 19, §3
Subsection 2 amended

CHAPTER 2C

CITIZENS’ AIDE

2C.13 No investigation — notice to complainant.

If the citizens’ aide decides not to investigate, the complainant shall be informed of the reasons for the decision. If the citizens’ aide decides to investigate, the complainant and the agency shall be notified of the decision. After completing consideration of a complaint, whether or not it has been investigated, the citizens’ aide shall without delay inform the complainant of the fact, and if appropriate, shall inform the agency involved. The citizens’ aide shall on request of the complainant, and as appropriate, report the status of the investigation to the complainant.

2005 Acts, ch 19, §4
Section amended

2C.14 Institutionalized complainants.

A letter to the citizens’ aide from a person in a correctional institution, a hospital, or other institution under the control of an agency shall be immediately forwarded, unopened to the citizens’

aide by the institution where the writer of the letter is a resident. A letter from the citizens’ aide to such a person shall be immediately delivered, unopened to the person.

2005 Acts, ch 19, §5
Section amended

2C.17 Publication of conclusions.

The citizens’ aide may publish the conclusions, recommendations, and suggestions and transmit them to the governor or the general assembly or any of its committees. When publishing an opinion adverse to an agency or official the citizens’ aide shall, unless excused by the agency or official affected, include with the opinion any unedited reply made by the agency.

Any conclusions, recommendations, and suggestions so published may at the same time be made available to the news media or others who may be concerned.

2005 Acts, ch 19, §6
Unnumbered paragraph 1 amended

CHAPTER 3

STATUTES AND RELATED MATTERS

3.3 Headnotes and historical references.

Proper headnotes may be placed at the beginning of a section of a bill or a Code section, and at the end of a Code section there may be placed a reference to the section number of the Code, or any Iowa Act from which the matter of the Code section was taken. However, except as provided in

the uniform commercial code, section 554.1109, neither said headnotes nor said historical references shall be considered as a part of the law as enacted.

2005 Acts, ch 19, §7
Section amended

CHAPTER 4

CONSTRUCTION OF STATUTES

4.1 Rules.

In the construction of the statutes, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the general assembly, or repugnant to the context of the statute:

1. *Appellate court.* The term “*appellate court*” means and includes both the supreme court and the court of appeals. Where an act, omission, right, or liability is by statute conditioned upon the filing of a decision by an appellate court, the term means any final decision of either the supreme court or the court of appeals.

2. *Child* includes child by adoption.

3. *Clerk — clerk’s office.* The word “*clerk*” means clerk of the court in which the action or proceeding is brought or is pending; and the words “*clerk’s office*” mean the office of that clerk.

4. *Consanguinity and affinity.* Degrees of consanguinity and affinity shall be computed according to the civil law.

5. *Court employee* and *employee of the judicial branch* include every officer or employee of the judicial branch except a judicial officer.

6. *Deed — bond — indenture — undertaking.* The word “*deed*” is applied to an instrument conveying lands, but does not imply a sealed instrument; and the words “*bond*” and “*indenture*” do not necessarily imply a seal, and the word “*undertaking*” means a promise or security in any form.

7. *Executor — administrator.* The term “*executor*” includes administrator, and the term “*administrator*” includes executor, where the subject matter justifies such use.

8. *Figures and words.* If there is a conflict between figures and words in expressing a number, the words govern.

9. *Highway — road.* The words “*highway*” and “*road*” include public bridges, and may be held equivalent to the words “*county way*”, “*county road*”, “*common road*”, and “*state road*”.

9A. *Internet* means the federated international system that is composed of allied electronic communication networks linked by telecommunication channels, that uses standardized protocols, and that facilitates electronic communication services, including but not limited to use of the world wide web; the transmission of electronic mail or messages; the transfer of files and data or other electronic information; and the transmission of voice, image, and video.

10. *Issue.* The word “*issue*” as applied to descent of estates includes all lawful lineal descendants.

11. *Joint authority.* Words giving a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of them, unless it be otherwise expressed in the Act giving the authority.

12. *Judicial officer* means a supreme court justice, a judge of the court of appeals, a district judge, a district associate judge, an associate juvenile judge, an associate probate judge, or a magistrate. The term also includes a person who is temporarily serving as a justice, judge, or magistrate as permitted by section 602.1612 or 602.9206.

13. *Land — real estate.* The word “*land*” and the phrases “*real estate*” and “*real property*” include lands, tenements, hereditaments, and all rights thereto and interests therein, equitable as well as legal.

13A. *Livestock* includes but is not limited to an animal classified as an ostrich, rhea, or emu.

14. *Magistrate* means a judicial officer appointed under chapter 602, article 6, part 4.

15. Reserved.

16. *Month — year — A.D.* The word “*month*” means a calendar month, and the word “*year*” and the abbreviation “*A.D.*” are equivalent to the expression “*year of our Lord*”.

17. *Number and gender.* Unless otherwise specifically provided by law the singular includes the plural, and the plural includes the singular.

Words of one gender include the other genders.

18. *Numerals — figures.* The Roman numerals and the Arabic figures are to be taken as parts of the English language.

19. *Oath — affirmation.* The word “oath” includes affirmation in all cases where an affirmation may be substituted for an oath, and in like cases the word “swear” includes “affirm”.

20. *Person.* Unless otherwise provided by law, “person” means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

21. *Personal property.* The words “personal property” include money, goods, chattels, evidences of debt, and things in action.

21A. *Persons with mental illness.* The words “persons with mental illness” include persons with psychosis, persons who are severely depressed, and persons with any type of mental disease or mental disorder, except that mental illness does not refer to mental retardation as defined in section 222.2, or to insanity, diminished responsibility, or mental incompetency as defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules. A person who is hospitalized or detained for treatment of mental illness shall not be deemed or presumed to be incompetent in the absence of a finding of incompetence made pursuant to section 229.27.

22. *Population.* The word “population” where used in this Code or any statute means the population shown by the latest preceding certified federal census, unless otherwise specifically provided.

23. *“Preceding” and “following”* when used by way of reference to a chapter or other part of a statute mean the next preceding or next following chapter or other part.

24. *Property.* The word “property” includes personal and real property.

25. *Quorum.* A quorum of a public body is a majority of the number of members fixed by statute.

26. *Repeal — effect of.* The repeal of a statute, after it becomes effective, does not revive a statute previously repealed, nor affect any right which has accrued, any duty imposed, any penalty incurred, or any proceeding commenced, under or by virtue of the statute repealed.

27. *“Rule”* includes “regulation”.

28. *Seal.* Where the seal of a court, public office or officer, or public or private corporation, may be required to be affixed to any paper, the word “seal” shall include an impression upon the paper alone, as well as upon wax or a wafer affixed thereto or an official ink stamp if a notarial seal.

29. *Series.* If a statute refers to a series of numbers or letters, the first and the last numbers or letters are included.

30. *Shall, must, and may.* Unless otherwise

specifically provided by the general assembly, whenever the following words are used in a statute enacted after July 1, 1971, their meaning and application shall be:

a. The word “shall” imposes a duty.

b. The word “must” states a requirement.

c. The word “may” confers a power.

31. *Sheriff.* The term “sheriff” may be extended to any person performing the duties of the sheriff, either generally or in special cases.

32. *State.* The word “state”, when applied to the different parts of the United States, includes the District of Columbia and the territories, and the words “United States” may include the said district and territories.

33. *Tense.* Words in the present tense include the future.

34. *Time — legal holidays.* In computing time, the first day shall be excluded and the last included, unless the last falls on Sunday, in which case the time prescribed shall be extended so as to include the whole of the following Monday. However, when by the provisions of a statute or rule prescribed under authority of a statute, the last day for the commencement of an action or proceedings, the filing of a pleading or motion in a pending action or proceedings, or the perfecting or filing of an appeal from the decision or award of a court, board, commission, or official falls on a Saturday, a Sunday, a day on which the office of the clerk of the district court is closed in whole or in part pursuant to the authority of the supreme court, the first day of January, the third Monday in January, the twelfth day of February, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the eleventh day of November, the fourth Thursday in November, the twenty-fifth day of December, and the following Monday when any of the foregoing named legal holidays fall on a Sunday, and any day appointed or recommended by the governor of Iowa or the president of the United States as a day of fasting or thanksgiving, the time shall be extended to include the next day which the office of the clerk of the court or the office of the board, commission, or official is open to receive the filing of a commencement of an action, pleading or a motion in a pending action or proceeding, or the perfecting or filing of an appeal.

35. *“United States”* includes all the states.

36. The word “week” means seven consecutive days.

37. *Will.* The word “will” includes codicils.

38. *Words and phrases.* Words and phrases shall be construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, shall be construed according to such meaning.

39. *Written — in writing — signature.* The words “written” and “in writing” may include any mode of representing words or letters in general

use, and include an electronic record as defined in section 554D.103. A signature, when required by law, must be made by the writing or markings of the person whose signature is required. “*Signature*” includes an electronic signature as defined in section 554D.103. If a person is unable due to a physical disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:

a. The name of the person with a disability written by another upon the request and in the presence of the person with a disability.

b. A rubber stamp reproduction of the name or facsimile of the actual signature when adopted by the person with a disability for all purposes requiring a signature and then only when affixed by that person or another upon request and in the presence of the person with a disability.

40. The word “*year*” means twelve consecutive months.

2005 Acts, ch 3, §1

Similar provision on population, §9F.6

Transition provisions for court reorganization in chapter 602, article 11
Subsection 39, unnumbered paragraph 1 amended

CHAPTER 7A

OFFICIAL REPORTS AND MISCELLANEOUS PUBLICATIONS

7A.27 Other necessary publications — when necessary to sell.

Other miscellaneous documents, reports, bulletins, books, and booklets may be published that are needed for the use of the various officials and departments of state, or are of value for the information of the general assembly or the public, in form and number most useful and convenient, to be determined by the director of the department of administrative services.

When such publications, paid for by public funds furnished by the state, contain reprints of statutes or rules, or both, they shall be sold and distributed at cost by the department ordering the publication if the cost per publication is one dollar or more, unless a central library or depository is established. Such publications shall be obtained from the director of the department of administrative services on requisition by the department ordering the publication, and the selling price, if any, shall

be determined by the director of the department of administrative services by dividing the total cost of printing, paper, distribution, and binding by the number printed. The price shall be set at the nearest multiple of ten to the quotient thus obtained. Distribution of such publications shall be made by the director gratis to public officers, purchasers of licenses from state departments required by statute, and departments. Funds from the sale of such publications shall be deposited monthly in the general fund of the state, except the cost of distribution shall be deposited in the printing revolving fund established in section 8A.345. This section does not apply to the printed versions of the official legal publications listed in section 2A.5.

2005 Acts, ch 19, §8

Additional geological reports, §456.9

Publication of director of institutions bulletins, §218.46

Publication of parts of Code or administrative code, §2B.21

Unnumbered paragraph 2 amended

CHAPTER 7C

PRIVATE ACTIVITY BOND ALLOCATION ACT

7C.3 Definitions.

For the purposes of this chapter, unless the context otherwise requires:

1. “*Allocation*” means that portion of the state ceiling which is allocated and certified to a political subdivision hereby or by the governor’s designee pursuant to section 7C.8 with respect to an issue of bonds for a specific project or purpose.

2. “*Bond*” or “*private activity bond*” means a private activity bond as defined in section 141 of the Internal Revenue Code.

3. “*Carryforward project*” means a carryforward project or carryforward purpose as defined in section 146(f) of the Internal Revenue Code.

4. “*First-time farmer*” means a first-time farmer as defined in section 147(c) of the Internal Revenue Code.

5. “*Governor’s designee*” means the person, department, or authority designated by the governor to administer this chapter.

6. “*Internal Revenue Code*” means the Internal Revenue Code as defined in section 422.3.

7. “*Political subdivision*” means a political subdivision, authority, or department of the state which is authorized under the laws of the state to issue private activity bonds.

8. “*Qualified mortgage bond*” means a qualified mortgage bond as defined in section 143(a) of

the Internal Revenue Code.

9. “*Qualified residential rental project bond*” means a qualified residential rental project bond as defined in section 142(d) of the Internal Revenue Code.

10. “*Qualified small issue bond*” means a qualified small issue bond as defined in section 144(a) of the Internal Revenue Code.

11. “*Qualified student loan bond*” means a qualified student loan bond as defined in section 144(b) of the Internal Revenue Code.

12. “*State ceiling*” means the same as defined in section 146(d) of the Internal Revenue Code.

2005 Acts, ch 30, §1

NEW subsection 9 and former subsections 9 – 11 renumbered as 10 – 12

7C.4A Allocation of state ceiling.

For each calendar year, the state ceiling shall be allocated among bonds issued for various purposes as follows:

1. Thirty percent of the state ceiling shall be allocated solely to the Iowa finance authority for any of the following purposes:

- a. Issuing qualified mortgage bonds.
- b. Reallocating the amount, or any portion thereof, to another qualified political subdivision for the purpose of issuing qualified mortgage bonds.
- c. Exchanging the allocation, or any portion thereof, for the authority to issue mortgage credit certificates by election under section 25(c) of the Internal Revenue Code.
- d. Issuing qualified residential rental project bonds.

However, at any time during the calendar year the executive director of the Iowa finance authority may determine that a lesser amount need be allocated to the Iowa finance authority and on that date this lesser amount shall be the amount allocated to the authority and the excess shall be allocated under subsection 7.

2. Twelve percent of the state ceiling shall be allocated to bonds issued to carry out programs established under chapters 260C, 260E, and 260F. However, at any time during the calendar year the director of the Iowa department of economic development may determine that a lesser amount need be allocated and on that date this lesser amount shall be the amount allocated for those programs

and the excess shall be allocated under subsection 7.

3. Sixteen percent of the state ceiling shall be allocated to qualified student loan bonds. However, at any time during the calendar year the governor’s designee, with the approval of the Iowa student loan liquidity corporation, may determine that a lesser amount need be allocated to qualified student loan bonds and on that date the lesser amount shall be the amount allocated for those bonds and the excess shall be allocated under subsection 7.

4. Twenty-one percent of the state ceiling shall be allocated to qualified small issue bonds issued for first-time farmers. However, at any time during the calendar year the governor’s designee, with the approval of the Iowa agricultural development authority, may determine that a lesser amount need be allocated to qualified small issue bonds for first-time farmers and on that date this lesser amount shall be the amount allocated for those bonds and the excess shall be allocated under subsection 7.

5. Eighteen percent of the state ceiling shall be allocated to bonds issued by political subdivisions to finance a qualified industry or industries for the manufacturing, processing, or assembly of agricultural or manufactured products even though the processed products may require further treatment before delivery to the ultimate consumer.

6. During the period of January 1 through June 30, three percent of the state ceiling shall be reserved for private activity bonds issued by political subdivisions, the proceeds of which are used by the issuing political subdivisions.

7. a. The amount of the state ceiling which is not otherwise allocated under subsections 1 through 5, and after June 30, the amount of the state ceiling reserved under subsection 6 and not allocated, shall be allocated to all bonds requiring an allocation under section 146 of the Internal Revenue Code without priority for any type of bond over another, except as otherwise provided in sections 7C.5 and 7C.11.

b. The population of the state shall be determined in accordance with the Internal Revenue Code.

2005 Acts, ch 30, §2

Subsection 1 amended

CHAPTER 7D

EXECUTIVE COUNCIL

7D.15 Public policy research foundation.

1. The public policy research foundation is created for the purpose of conducting studies and making recommendations on critical and long-term issues needing the attention of state government. The foundation is authorized to establish

an endowment fund to assist in the financing of its activities. The foundation may exercise any power authorized by chapter 504 and this section.

2. The executive council shall cause a public policy research foundation to be created under chapter 504 and this section. The foundation shall

be created so that donations and bequests to it qualify as tax deductible under the federal and state income tax laws. The foundation is not a state agency and shall not exercise any sovereign power of the state. The state is not liable for any debts of the foundation.

3. The public policy research foundation shall have a board of directors of ten members. One member shall be appointed by the state board of regents and one member shall be appointed by the Iowa association of independent colleges and universities. Four members shall be appointed by the governor and four members shall be appointed by the legislative council, one by each appointing authority representing the interests of each of the following four categories:

- a. Business.
- b. Labor.
- c. Community-based organizations.
- d. Farming.

4. The terms of the members of the board of directors shall be two years beginning on July 1 and ending on June 30. A vacancy on the board shall be filled in the same manner as the original appointment for the remainder of the term. Not more than two of the governor's appointees and

two of the legislative council's appointees, respectively, shall be of the same gender or of the same political party.

5. The governor, the legislative council by motion, and the general assembly by concurrent resolution may request that studies be conducted by the public policy research foundation. The board of directors of the foundation shall establish the priorities of the research requests based upon available financial resources.

6. For the purposes of this section "*community-based organizations*" means private nonprofit organizations which are representative of communities or significant segments of communities. Examples include United Way of America, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities as defined in section 7, subsection 10, of the federal Rehabilitation Act of 1973, tribal governments, and agencies serving youth, persons with disabilities, displaced homemakers, or on-reservation Indians.

2004 Acts, ch 1049, §191
Chapter 504A references stricken effective July 1, 2005, pursuant to Code editor directive; 2004 Acts, ch 1049, §191
Code editor directive applied

CHAPTER 7E

EXECUTIVE BRANCH ORGANIZATION AND RESPONSIBILITIES

7E.5 Principal departments and primary responsibilities.

1. The principal central departments of the executive branch as established by law are listed in this section for central reference purposes as follows:

- a. The department of management, created in section 8.4, which has primary responsibility for coordination of state policy planning, management of interagency programs, economic reports, and program development.
- b. The department of administrative services, created in section 8A.102, which has primary responsibility for the management and coordination of the major resources of state government.
- c. The department of revenue, created in section 421.2, which has primary responsibility for revenue collection and revenue law compliance.
- d. The department of inspections and appeals, created in section 10A.102, which has primary responsibility for coordinating the conducting of various inspections, investigations, appeals, hearings, and audits.
- e. The department of agriculture and land stewardship, created in section 159.2, which has primary responsibility for encouraging, promoting, and advancing the interests of agriculture and allied industries. The secretary of agriculture is

the director of the department of agriculture and land stewardship.

f. The department of commerce, created in section 546.2, which has primary responsibility for business and professional regulatory, service, and licensing functions.

g. The Iowa department of economic development, created in section 15.105, which has primary responsibility for programs for carrying out the economic development policies of the state.

h. The department of workforce development, created in section 84A.1, which has primary responsibility for administering the laws relating to unemployment compensation insurance, job placement and training, employment safety, labor standards, workers' compensation, and related matters.

i. The department of human services, created in section 217.1, which has primary responsibility for services to individuals to promote the well-being and the social and economic development of the people of the state.

j. The Iowa department of public health, created in chapter 135, which has primary responsibility for supervision of public health programs, promotion of public hygiene and sanitation, treatment and prevention of substance abuse, and enforcement of related laws.

k. The department of elder affairs, created in section 231.21, which has primary responsibility for leadership and program management for programs which serve the senior citizens of the state.

l. The department of cultural affairs, created in section 303.1, which has primary responsibility for managing the state's interests in the areas of the arts, history, the state archives and records program, and other cultural matters.

m. The department of education, created in section 256.1, which has primary responsibility for supervising public education at the elementary and secondary levels and for supervising the community colleges.

n. The department of corrections, created in section 904.102, which has primary responsibility for corrections administration, corrections institutions, prison industries, and the development, funding, and monitoring of community-based corrections programs.

o. The department of public safety, created in section 80.1, which has primary responsibility for statewide law enforcement and public safety programs that complement and supplement local law enforcement agencies and local inspection services.

p. The department of public defense, created in section 29.1, which has primary responsibility for state military forces and emergency management.

q. The department of natural resources, created in section 455A.2, which has primary responsibility for state parks and forests, protecting the environment, and managing energy, fish, wildlife, and land and water resources.

r. The state department of transportation, created in section 307.2, which has primary responsibility for development and regulation of highway, railway, and air transportation throughout the state, including public transit.

s. The department of human rights, created in section 216A.1, which has primary responsibility for services relating to Latino persons, women, persons with disabilities, community action agencies, criminal and juvenile justice planning, the status of African-Americans, and deaf and hard-of-hearing persons.

t. In the area of higher education, an agency headed by the state board of regents and including all the institutions administered by the state board of regents, which has primary responsibility for state involvement in higher education.

u. The department for the blind, created in chapter 216B, which has primary responsibility for services relating to blind persons.

v. The department of veterans affairs. However, the commission of veterans affairs created in section 35A.2 shall have primary responsibility for state veterans affairs.

2. a. There is a civil rights commission, a public employment relations board, an interstate cooperation commission, an ethics and campaign

disclosure board, and an Iowa law enforcement academy.

b. The listing of additional state agencies in this subsection is for reference purposes only and is not exhaustive.

3. The responsibilities listed for each department and agency in this section are generally descriptive of the department's or agency's duties, are not all-inclusive, and do not exclude duties and powers specifically prescribed for by statute, or delegated to, each department or agency.

2005 Acts, ch 115, §1, 40
Subsection 1, paragraph v amended

7E.6 Compensation of members of boards, committees, commissions, and councils.

1. a. Any position of membership on any board, committee, commission, or council in the executive branch of state government which is compensated by the payment of a per diem to the holder of that position under statutory law shall be compensated at the rate of fifty dollars per diem, notwithstanding any other law to the contrary.

b. Reimbursement of expenses to the holder of any position governed by this subsection shall be as provided in the applicable law.

c. In regard to any board, committee, commission, or council which has its name or organizational location altered after January 1, 1986, the statutory provision on the subject of per diem compensation which was applicable to it on January 1, 1986, shall continue to govern such agency and its successor agency, notwithstanding the change in name or organizational location.

2. Any position of membership on any board, committee, commission, or council in the state government which has a compensation level limited to expenses only is eligible to receive, in addition to such actual expense reimbursement, an additional expense allowance of fifty dollars per day if the holder of any such position applies for such additional expense allowance and the holder of the position has an income level of one hundred fifty percent or less of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

3. Any position of membership on the board of the Iowa lottery authority shall receive compensation of fifty dollars per day and expenses.

4. Any position of membership on the transportation commission shall be compensated at an annual rate of ten thousand dollars.

5. Any position of membership on the board of parole, the public employment relations board, the utilities board, the employment appeal board, and the property assessment appeal board shall be compensated as otherwise provided in law.

6. All of the compensation provisions of this section are subject to the proper appropriations being made in the state budget legislation.

7. It is the intent of the general assembly that this section shall be the governing provision on the subject of the compensation of any position of membership on any board, committee, commission, or council in the state government and that the provisions of this section shall govern over any

conflicting provision of law except provisions enacted subsequent to July 1, 1986, notwithstanding the provisions of section 4.7.

2005 Acts, ch 150, §119
For future repeal, effective July 1, 2013, of 2005 amendments to subsection 5, see 2005 Acts, ch 150, §134
Subsection 5 amended

CHAPTER 7J

CHARTER AGENCIES

7J.1 Charter agencies.

1. *Designation of charter agencies — purpose.* The governor may, by executive order, designate state departments or agencies, as described in section 7E.5, or the Iowa lottery authority established in chapter 99G, other than the department of administrative services or the department of management, as a charter agency by July 1, 2003. The designation of a charter agency shall be for a period of five years which shall terminate as of June 30, 2008. The purpose of designating a charter agency is to grant the agency additional authority as provided by this chapter while reducing the total appropriations to the agency.

2. *Charter agency directors.*

a. Prior to each fiscal year, or as soon thereafter as possible, the governor and each director of a designated charter agency shall enter into an annual performance agreement which shall set forth measurable organization and individual goals for the director in key operational areas of the director's agency. The annual performance agreement shall be made public and a copy of the agreement shall be submitted to the general assembly.

b. In addition to the authority granted the governor as to the appointment and removal of a director of an agency that is a charter agency, the governor may remove a director of a charter agency for misconduct or for failure to achieve the performance goals set forth in the annual performance agreement.

c. Notwithstanding any provision of law to the contrary, the governor may set the salary of a director of a charter agency under the pay plan for exempt positions in the executive branch of government. In addition, the governor may authorize the payment of a bonus to a director of a charter agency in an amount not in excess of fifty percent of the director's annual rate of pay, based upon the governor's evaluation of the director's performance in relation to the goals set forth in the annual performance agreement.

d. A director of a charter agency may authorize the payment of bonuses to employees of the charter agency in a total amount not in excess of fifty percent of the director's annual rate of pay, based upon the director's evaluation of the em-

ployees' performance.

3. *Appropriations and asset management.*

a. It is the intent of the general assembly that state general fund operating appropriations to a charter agency for the fiscal year beginning July 1, 2003, and ending June 30, 2004, shall be reduced from the appropriation that would otherwise have been enacted for that charter agency which, along with any additional generated revenue to the general fund of the state attributed to the reinvention process as determined by the department of management, over that already committed to the general fund of the state by a charter agency, will achieve an overall target of fifteen million dollars.

b. Notwithstanding any provision of law to the contrary, proceeds from the sale or lease of capital assets that are under the control of a charter agency shall be retained by the charter agency and used for such purposes within the scope of the responsibilities of the charter agency.

c. Notwithstanding section 8.33, one-half of all unencumbered or unobligated balances of appropriations made for each fiscal year of that fiscal period to the charter agency shall not revert to the state treasury or to the credit of the funds from which the appropriations were made.

d. For the fiscal period beginning July 1, 2003, and ending June 30, 2006, a charter agency is not subject to a uniform reduction ordered by the governor in accordance with section 8.31.

4. *Personnel management.*

a. Notwithstanding any provision of law to the contrary, a charter agency shall not be subject to any limitation relating to the number of or pay grade assigned to its employees, including any limitation on the number of full-time equivalent positions as defined by section 8.36A.

b. A charter agency may waive any personnel rule and may exercise the authority granted to the department of administrative services relating to personnel management concerning employees of the charter agency, subject to any restrictions on such authority as to employees of the charter agency covered by a collective bargaining agreement. The exclusive representative of employees of a charter agency may enter into agreements with the charter agency to grant the charter

agency the authority described in this paragraph. A waiver of a rule pursuant to this subsection shall be indexed, filed, and made available for public inspection in the same manner as provided in section 17A.9A, subsection 4.

5. *Procurement and general services.* A charter agency may waive any administrative rule regarding procurement, fleet management, printing and copying, or maintenance of buildings and grounds, and may exercise the authority of the department of administrative services as it relates to the physical resources of the state. A waiver of a rule pursuant to this subsection shall be indexed, filed, and made available for public inspection in the same manner as provided in section 17A.9A, subsection 4.

6. *Information technology.* A charter agency may waive any administrative rule regarding the acquisition and use of information technology and may exercise the powers of the department of administrative services as it relates to information technology. A waiver of a rule pursuant to this subsection shall be indexed, filed, and made available for public inspection in the same manner as provided in section 17A.9A, subsection 4.

7. *Rule flexibility.*

a. A charter agency may temporarily waive or suspend the provisions of any administrative rule if strict compliance with the rule impacts the ability of the charter agency requesting the waiver or suspension to perform its duties in a more cost-efficient manner and the requirements of this subsection are met.

b. The procedure for granting a temporary waiver or suspension of any administrative rule shall be as follows:

(1) The charter agency may waive or suspend a rule if the agency finds, based on clear and convincing evidence, all of the following:

(a) The application of the rule poses an undue financial hardship on the applicable charter agency.

(b) The waiver or suspension from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person.

(c) Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver or suspension is requested.

(d) The waiver or suspension would not result in a violation of due process, a violation of state or federal law, or a violation of the state or federal constitution.

(2) If a charter agency proposes to grant a waiver or suspension, the charter agency shall draft the waiver or suspension so as to provide the narrowest exception possible to the provisions of the rule and may place any condition on the waiver or suspension that the charter agency finds desirable to protect the public health, safety, and welfare. The charter agency shall then submit the

waiver or suspension to the administrative rules review committee for consideration at the committee's next scheduled meeting.

(3) The administrative rules review committee shall review the proposed waiver or suspension at the committee's next scheduled meeting following submission of the proposal and may either take no action or affirmatively approve the waiver or suspension, or delay the effective date of the waiver or suspension in the same manner as for rules as provided in section 17A.4, subsection 5, and section 17A.8, subsection 9. If the administrative rules review committee either approves or takes no action concerning the proposed waiver or suspension, the waiver or suspension may become effective no earlier than the day following the meeting. If the administrative rules review committee delays the effective date of the waiver or suspension but no further action is taken to rescind the waiver or suspension, the proposed waiver or suspension may become effective no earlier than upon the conclusion of the delay. The administrative rules review committee shall notify the applicable charter agency of its action concerning the proposed waiver or suspension.

(4) Copies of the grant or denial of a waiver or suspension under this subsection shall be filed and made available to the public by the applicable charter agency.

c. A waiver or suspension granted pursuant to this subsection shall be for a period of time not to exceed twelve months or until June 30, 2008, whichever first occurs, and as determined by the applicable charter agency. A renewal of a temporary waiver or suspension granted pursuant to this section shall be granted or denied in the same manner as the initial waiver or suspension.

8. *Executive council flexibility.* Notwithstanding any provision of law to the contrary, a charter agency shall not be required to obtain executive council approval for claims for expenses of attending conventions, out-of-state travel requests, and memberships in professional organizations.

9. *Appeal board flexibility.* Notwithstanding any provision of law to the contrary, a charter agency shall not be required to obtain state appeal board approval for payment of prior year claims from funds other than the general fund of the state.

10. *Reporting requirements.*

a. Each charter agency shall submit a written report to the general assembly by December 31 of each year summarizing the activities of the charter agency for the preceding fiscal year. The report shall include information concerning the expenditures of the agency and the number of filled full-time equivalent positions during the preceding fiscal year. The report shall include information relating to the actions taken by the agency pursuant to the authority granted by this section.

b. By January 15, 2008, the governor shall

submit a written report to the general assembly on the operation and effectiveness of this chapter and the costs and savings associated with the implementation of this chapter. The report shall include any recommendations about extending the chapter's effectiveness beyond June 30, 2008.

11. *Department of management review.* Each proposed waiver or suspension of an administrative rule as authorized by this section shall be submitted to the department of management for re-

view prior to the waiver or suspension becoming effective. The director of the department of management may disapprove the waiver or suspension if, based on clear and convincing evidence, the director determines that the suspension or waiver would result in an adverse financial impact on the state.

2005 Acts, ch 129, §1, 2
Subsection 3, paragraph d amended
NEW subsection 9 and former subsections 9 and 10 renumbered as 10 and 11

CHAPTER 7K

INSTITUTE FOR TOMORROW'S WORKFORCE

Chapter repealed July 1, 2015; see §7K.1

7K.1 Institute for tomorrow's workforce.

1. *Findings.* The general assembly finds that Iowa's children are this state's greatest asset and to improve the future for Iowa's children, it is necessary to focus elementary, secondary, and post-secondary education efforts on what children need to know to be successful students and successful participants in Iowa's global workforce. Iowa's state community and business leaders are at the forefront of this ongoing conversation. The general assembly further finds that the creation of an institute for tomorrow's workforce provides a long-term forum for bold, innovative recommendations to improve Iowa's education system to meet the workforce needs of Iowa's new economy.

2. *Foundation created—duties.* There is created a public body corporate and politic to be known as the "institute for tomorrow's workforce, an educational foundation". The foundation is an independent nonprofit quasi-public instrumentality and the exercise of the powers granted to the foundation as a corporation in this chapter is an essential government function. As used in this chapter, "*foundation*" means the institute for tomorrow's workforce, an educational foundation. The foundation shall, at a minimum, do the following:

a. Review educational standards to determine relevance and rigor necessary for continuous improvement in student achievement and meeting workforce needs.

b. Identify jobs skills and corresponding high school coursework necessary to achieve success in the Iowa workforce.

c. Review the state's education accountability measures, including but not limited to student proficiency and individual and organization program accountability.

d. Identify state and local barriers to improved student achievement and student success as well as barriers to sharing among and within all areas of Iowa's education system.

e. Identify effective education structure and

delivery models that promote optimum student achievement opportunities for all Iowa students that include, but are not limited to, the role of technology.

f. Serve as a clearinghouse for existing and emerging innovative educational sharing and collaborative efforts among and between Iowa's secondary education system as well as Iowa's postsecondary education system.

g. Promote partnerships between private sector business and all areas of Iowa's education system.

h. Promote partnerships between other Iowa governance structures including, but not limited to, cities and counties, and all areas of Iowa's education system.

i. Identify ways to reduce the achievement gap between white and non-white, non-Asian students.

3. *Membership.* The board of directors of the foundation shall consist of fifteen members serving staggered three-year terms beginning on May 1 of the year of appointment who shall be appointed as follows:

a. Five members shall be appointed by the governor as follows:

(1) A school district superintendent from a school district with enrollment of one thousand one hundred forty-nine or fewer pupils.

(2) An individual representing an Iowa business employing more than two hundred fifty employees.

(3) A community college president.

(4) An individual representing labor and workforce interests.

(5) An individual representing an Iowa agriculture association.

b. Five members shall be appointed by the speaker of the house of representatives as follows:

(1) An individual representing the area education agencies.

(2) The president of an accredited private institution as defined in section 261.9.

(3) An individual representing an Iowa business employing more than fifty employees but not more than two hundred fifty employees.

(4) An individual representing urban economic development interests.

(5) An individual from an association representing Iowa businesses.

c. Five members shall be appointed by the president of the senate as follows:

(1) A school district superintendent from a school district with an enrollment of more than one thousand one hundred forty-nine pupils.

(2) A president of an institution of higher education under the control of the state board of regents.

(3) An individual representing an Iowa business employing fifty or fewer employees.

(4) An individual representing rural economic development interests.

(5) An individual representing a business that established itself in Iowa on or after July 1, 1999.

Members, except as provided in paragraph “c”, subparagraph (2), shall not be employed by the state. One co-chairperson shall be appointed by the speaker of the house of representatives and one co-chairperson shall be appointed by the president of the senate.

4. *Board — duties.* The board of directors of the foundation, within the limits of the funds available to the foundation, shall do the following:

a. Employ an executive director to direct the

activities of the foundation.

b. Execute contracts with public and private agencies to conduct research and development activities.

c. Perform functions necessary to carry out the purposes of the foundation.

5. *Matching funds requirement.* Moneys appropriated by the general assembly for purposes of the foundation shall be allocated only to the extent that the state moneys are matched from other sources by the foundation on a dollar-for-dollar basis.

6. *Reporting requirements.* The foundation shall submit its findings and recommendations by January 15 annually in a report to the governor, the speaker of the house of representatives, the president of the senate, the state board of education, the state board of regents, the department of workforce development, the department of economic development, the Iowa association of community college trustees, the college student aid commission, the Iowa association of independent colleges and universities, and associations representing school boards, nonpublic schools, area education agencies, and teachers. The report shall include an accounting of the revenues and expenditures of the foundation.

7. *Future repeal.* This chapter is repealed effective July 1, 2015.

2005 Acts, ch 169, §17
NEW section

CHAPTER 8

DEPARTMENT OF MANAGEMENT — BUDGET AND FINANCIAL CONTROL ACT

8.7 Reporting of gifts received.

All gifts, bequests, and grants received by a department or accepted by the governor on behalf of the state shall be reported to the Iowa ethics and campaign disclosure board and the government oversight committees. The ethics and campaign disclosure board shall, by January 31 of each year, submit to the fiscal services division of the legislative services agency a written report listing all gifts, bequests, and grants received during the previous calendar year with a value over one thousand dollars and the purpose for each such gift, bequest, or grant. The submission shall also include a listing of all gifts, bequests, and grants received by a department from a person if the cumulative value of all gifts, bequests, and grants received by the department from the person during the previous calendar year exceeds one thousand dollars, and the ethics and campaign disclosure board shall include, if available, the purpose for each such gift, bequest, or grant. However, reports on gifts, grants, or bequests filed by the state board of regents pursuant to section 8.44 shall be deemed

sufficient to comply with the requirements of this section.

2005 Acts, ch 173, §27
NEW section

8.8 Special olympics fund — appropriation.

A special olympics fund is created in the office of the treasurer of state under the control of the department of management. There is appropriated annually from the general fund of the state to the special olympics fund fifty thousand dollars for distribution to one or more organizations which administer special olympics programs benefiting the citizens of Iowa with disabilities.

2005 Acts, ch 179, §5
Section amended

8.55 Iowa economic emergency fund.

1. The Iowa economic emergency fund is created. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general

fund of the state. The moneys credited to the fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this section.

2. *a.* The maximum balance of the fund is the amount equal to two and one-half percent of the adjusted revenue estimate for the fiscal year. If the amount of moneys in the Iowa economic emergency fund is equal to the maximum balance, moneys in excess of this amount shall be transferred to the general fund.

b. Notwithstanding paragraph “*a*”, any moneys in excess of the maximum balance in the economic emergency fund after the distribution of the surplus in the general fund of the state at the conclusion of each fiscal year shall not be transferred to the general fund of the state but shall be transferred to the senior living trust fund. The total amount transferred, in the aggregate, under this paragraph for all fiscal years shall not exceed one hundred eighteen million dollars.

3. *a.* Except as provided in paragraphs “*b*” and “*c*”, the moneys in the Iowa economic emergency fund shall only be used pursuant to an appropriation made by the general assembly. An appropriation shall only be made for the fiscal year in which the appropriation is made. The moneys shall only be appropriated by the general assembly for emergency expenditures.

b. Moneys in the fund may be used for cash flow purposes during a fiscal year provided that any moneys so allocated are returned to the fund by the end of that fiscal year.

c. There is appropriated from the Iowa economic emergency fund to the general fund of the state for the fiscal year in which moneys in the fund were used for cash flow purposes, for the purposes of reducing or preventing any overdraft on or deficit in the general fund of the state, the amount from the Iowa economic emergency fund that was used for cash flow purposes pursuant to paragraph “*b*” and that was not returned to the Iowa economic emergency fund by June 30 of the fiscal year. The appropriation in this paragraph shall not exceed fifty million dollars and is contingent upon all of the following having occurred:

(1) The revenue estimating conference estimate of general fund receipts made during the last quarter of the fiscal year was or the actual fiscal year receipts and accruals were at least one-half of one percent less than the comparable estimate made during the third quarter of the fiscal year.

(2) The governor has implemented the uniform reductions in appropriations required in section 8.31 as a result of subparagraph (1) and such reduction was insufficient to prevent an overdraft on or deficit in the general fund of the state or the governor did not implement uniform reductions in appropriations because of the lateness of the estimated or actual receipts and accruals under sub-

paragraph (1).

(3) The balance of the general fund of the state at the end of the fiscal year prior to the appropriation made in this paragraph was negative.

(4) The governor has issued an official proclamation and has notified the co-chairpersons of the fiscal committee of the legislative council and the legislative services agency that the contingencies in subparagraphs (1) through (3) have occurred and the reasons why the uniform reductions specified in subparagraph (2) were insufficient or were not implemented to prevent an overdraft on or deficit in the general fund of the state.

d. If an appropriation is made pursuant to paragraph “*c*” for a fiscal year, there is appropriated from the general fund of the state to the Iowa economic emergency fund for the following fiscal year, the amount of the appropriation made pursuant to paragraph “*c*”.

e. Except as provided in section 8.58, the Iowa economic emergency fund shall be considered a special account for the purposes of section 8.53 in determining the cash position of the general fund of the state for the payment of state obligations.

4. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the Iowa economic emergency fund shall be credited to the rebuild Iowa infrastructure fund.

2005 Acts, ch 179, §24, 25

Subsection 2, paragraph b stricken

Subsection 2, paragraph c amended and redesignated as b

Subsection 2, paragraph d stricken

8.57 Annual appropriations — reduction of GAAP deficit — rebuild Iowa infrastructure fund.

1. *a.* The “*cash reserve goal percentage*” for fiscal years beginning on or after July 1, 2004, is seven and one-half percent of the adjusted revenue estimate. For each fiscal year in which the appropriation of the surplus existing in the general fund of the state at the conclusion of the prior fiscal year pursuant to paragraph “*b*” was not sufficient for the cash reserve fund to reach the cash reserve goal percentage for the current fiscal year, there is appropriated from the general fund of the state an amount to be determined as follows:

(1) If the balance of the cash reserve fund in the current fiscal year is not more than six and one-half percent of the adjusted revenue estimate for the current fiscal year, the amount of the appropriation under this lettered paragraph is one percent of the adjusted revenue estimate for the current fiscal year.

(2) If the balance of the cash reserve fund in the current fiscal year is more than six and one-half percent but less than seven and one-half percent of the adjusted revenue estimate for that fiscal year, the amount of the appropriation under this lettered paragraph is the amount necessary for the cash reserve fund to reach seven and one-half percent of the adjusted revenue estimate for

the current fiscal year.

(3) The moneys appropriated under this lettered paragraph shall be credited in equal and proportionate amounts in each quarter of the current fiscal year.

b. The surplus existing in the general fund of the state at the conclusion of the fiscal year is appropriated for distribution in the succeeding fiscal year as provided in subsections 3 and 4. Moneys credited to the cash reserve fund from the appropriation made in this paragraph shall not exceed the amount necessary for the cash reserve fund to reach the cash reserve goal percentage for the succeeding fiscal year. As used in this paragraph, “surplus” means the excess of revenues and other financing sources over expenditures and other financing uses for the general fund of the state in a fiscal year.

c. The amount appropriated in this section is not subject to the provisions of section 8.31, relating to requisitions and allotment, or to section 8.32, relating to conditional availability of appropriations.

2. a. There is appropriated from the surplus existing in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2005, and ending June 30, 2006, and at the conclusion of each succeeding fiscal year for distribution to the senior living trust fund, an amount equal to one percent of the adjusted revenue estimate for the current fiscal year. However, if the amount of the surplus existing in the general fund of the state at the conclusion of a fiscal year is less than two percent of the adjusted revenue estimate for that fiscal year, the amount of the appropriation made in this paragraph shall be equal to fifty percent of the surplus amount. The appropriation made in this paragraph shall be distributed to the senior living trust fund in the succeeding fiscal year. For the purposes of this subsection, “surplus” means the same as defined in subsection 1, paragraph “b”.

b. The appropriation made in paragraph “a” shall be made before the appropriations are made pursuant to subsections 1, 3, and 4, of the surplus existing in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2005, and ending June 30, 2006, and each succeeding fiscal year.

c. The appropriation made in paragraph “a” shall continue until the aggregate of the appropriations made or transferred to the senior living trust fund pursuant to paragraph “a” of this subsection and section 8.55, subsection 2, paragraph “b”, is equal to one hundred eighteen million dollars.

d. The aggregate amount of the appropriations to be transferred from the Iowa economic emergency fund to the senior living trust fund pursuant to section 8.55, subsection 2, paragraph “b”, shall be reduced by the appropriations made pursuant to paragraph “a” of this subsection.

e. This subsection is repealed when the aggregate

amount of appropriations specified in paragraph “c” has been distributed or transferred to the senior living trust fund. The director of the department of management shall notify the Iowa Code editor when the aggregate amount has been distributed or transferred.

3. Moneys appropriated under subsection 1 shall be first credited to the cash reserve fund. To the extent that moneys appropriated under subsection 1 would make the moneys in the cash reserve fund exceed the cash reserve goal percentage of the adjusted revenue estimate for the fiscal year, the moneys are appropriated to the department of management to be spent for the purpose of eliminating Iowa’s GAAP deficit, including the payment of items budgeted in a subsequent fiscal year which under generally accepted accounting principles should be budgeted in the current fiscal year. These moneys shall be deposited into a GAAP deficit reduction account established within the department of management. The department of management shall annually file with both houses of the general assembly at the time of the submission of the governor’s budget, a schedule of the items for which moneys appropriated under this subsection for the purpose of eliminating Iowa’s GAAP deficit, including the payment of items budgeted in a subsequent fiscal year which under generally accepted accounting principles should be budgeted in the current fiscal year, shall be spent. The schedule shall indicate the fiscal year in which the spending for an item is to take place and shall incorporate the items detailed in 1994 Iowa Acts, chapter 1181, section 17. The schedule shall list each item of expenditure and the estimated dollar amount of moneys to be spent on that item for the fiscal year. The department of management may submit during a regular legislative session an amended schedule for legislative consideration. If moneys appropriated under this subsection are not enough to pay for all listed expenditures, the department of management shall distribute the payments among the listed expenditure items. Moneys appropriated to the department of management under this subsection shall not be spent on items other than those included in the filed schedule. On September 1 following the close of a fiscal year, moneys in the GAAP deficit reduction account which remain unexpended for items on the filed schedule for the previous fiscal year shall be credited to the Iowa economic emergency fund.

4. To the extent that moneys appropriated under subsection 1 exceed the amounts necessary for the cash reserve fund to reach its maximum balance and the amounts necessary to eliminate Iowa’s GAAP deficit, including elimination of the making of any appropriation in an incorrect fiscal year, the moneys shall be appropriated to the Iowa economic emergency fund.

5. As used in this section, “GAAP” means generally accepted accounting principles as estab-

lished by the governmental accounting standards board.

6. *a.* A rebuild Iowa infrastructure fund is created under the authority of the department of management. The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state. However, the fund shall be considered a special account for the purposes of section 8.53, relating to generally accepted accounting principles.

b. Moneys in the infrastructure fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the infrastructure fund shall be credited to the infrastructure fund. Moneys in the infrastructure fund may be used for cash flow purposes during a fiscal year provided that any moneys so allocated are returned to the infrastructure fund by the end of that fiscal year.

c. Moneys in the fund in a fiscal year shall be used as directed by the general assembly for public vertical infrastructure projects. For the purposes of this subsection, “vertical infrastructure” includes only land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, and recreational trails. “Vertical infrastructure” does not include routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement. However, appropriations may be made for the fiscal years beginning July 1, 1997, and July 1, 1998, for the purpose of funding the completion of Part III of the Iowa communications network.

d. The general assembly may provide that all or part of the moneys deposited in the GAAP deficit reduction account created in this section shall be transferred to the infrastructure fund in lieu of appropriation of the moneys to the Iowa economic emergency fund.

e. Notwithstanding provisions to the contrary in sections 99D.17 and 99F.11, for the fiscal year beginning July 1, 2000, and for each fiscal year thereafter, not more than a total of sixty million dollars shall be deposited in the general fund of the state in any fiscal year pursuant to sections 99D.17 and 99F.11. The next fifteen million dollars of the moneys directed to be deposited in the general fund of the state in a fiscal year pursuant to sections 99D.17 and 99F.11 shall be deposited in the vision Iowa fund created in section 12.72 for the fiscal year beginning July 1, 2000, and for each fiscal year through the fiscal year beginning July 1, 2019. The next five million dollars of the moneys directed to be deposited in the general fund of the state in a fiscal year pursuant to sections

99D.17 and 99F.11 shall be deposited in the school infrastructure fund created in section 12.82 for the fiscal year beginning July 1, 2000, and for each fiscal year thereafter until the principal and interest on all bonds issued by the treasurer of state pursuant to section 12.81 are paid, as determined by the treasurer of state. The total moneys in excess of the moneys deposited in the general fund of the state, the vision Iowa fund, and the school infrastructure fund in a fiscal year shall be deposited in the rebuild Iowa infrastructure fund and shall be used as provided in this section, notwithstanding section 8.60.

If the total amount of moneys directed to be deposited in the general fund of the state under sections 99D.17 and 99F.11 in a fiscal year is less than the total amount of moneys directed to be deposited in the vision Iowa fund and the school infrastructure fund in the fiscal year pursuant to this paragraph “e”, the difference shall be paid from lottery revenues in the manner provided in section 99G.39, subsection 3.

f. There is appropriated from the rebuild Iowa infrastructure fund to the secure an advanced vision for education fund created in section 423E.4, for each fiscal year of the fiscal period beginning July 1, 2004, and ending June 30, 2014, the amount of the moneys in excess of the first forty-seven million dollars credited to the rebuild Iowa infrastructure fund during the fiscal year, not to exceed ten million dollars.

g. Notwithstanding any other provision to the contrary, and prior to the appropriation of moneys from the rebuild Iowa infrastructure fund pursuant to paragraph “c”, and section 8.57A, subsection 4, moneys shall first be appropriated from the rebuild Iowa infrastructure fund to the vertical infrastructure fund as provided in section 8.57B, subsection 4.

For temporary exceptions to appropriations contained in this section, see appropriations and other noncodified enactments in annual Acts of the general assembly

Section not amended; internal reference change applied

8.57B Vertical infrastructure fund.

1. A vertical infrastructure fund is created under the authority of the department of management. The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state. However, the fund shall be considered a special account for the purposes of section 8.53, relating to generally accepted accounting principles.

2. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the vertical infrastructure fund shall be credited to the rebuild Iowa infrastructure fund.

3. Moneys in the fund in a fiscal year shall be

used as appropriated by the general assembly for public vertical infrastructure projects. For the purposes of this section, “vertical infrastructure” includes only land acquisition and construction, major renovation, and major repair of buildings, all appurtenant structures, utilities, and site development. “Vertical infrastructure” does not include routine, recurring maintenance, debt service, or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

4. There is appropriated from the rebuild Iowa infrastructure fund to the vertical infrastructure fund, the following:

a. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, the sum of fifteen million dollars.

b. For the fiscal year beginning July 1, 2006, and ending June 30, 2007, the sum of fifteen million dollars.

c. For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of fifty million dollars.

d. For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of fifty million dollars.

2005 Acts, ch 178, §10
Subsection 4 amended

CHAPTER 8A

DEPARTMENT OF ADMINISTRATIVE SERVICES

8A.104 Powers and duties of the director.

The director shall do all of the following:

1. Coordinate the internal operations of the department and develop and implement policies and procedures designed to ensure the efficient administration of the department.

2. Appoint all personnel deemed necessary for the administration of the department’s functions as provided in this chapter.

3. Prepare an annual budget for the department.

4. Develop and recommend legislative proposals deemed necessary for the continued efficiency of the department’s functions, and review legislative proposals generated outside the department which are related to matters within the department’s purview.

5. Adopt rules deemed necessary for the administration of this chapter in accordance with chapter 17A.

6. Develop and maintain support systems within the department to provide appropriate administrative support and sufficient data for the effective and efficient operation of state government.

7. Enter into contracts for the receipt and provision of services as deemed necessary. The director and the governor may obtain and accept grants and receipts to or for the state to be used for the administration of the department’s functions as provided in this chapter.

8. Establish the internal organization of the department and allocate and reallocate duties and functions not assigned by law to an officer or any subunit of the department to promote economic and efficient administration and operation of the department.

9. Install a records system for the keeping of records which are necessary for a proper audit and effective operation of the department.

10. Determine which risk exposures shall be self-insured or assumed by the state with respect to loss and loss exposures of state government.

11. Keep in the director’s office a complete record containing an itemized account of all state property, including furniture and equipment, under the director’s care and control, and plans and surveys of the public grounds, buildings, and underground constructions at the seat of government and of the state laboratories facility in Ankeny.

12. Serve as the chief information officer for the state. However, the director may designate a person in the department to serve in this capacity at the discretion of the director. If the director designates a person to serve as chief information officer, the person designated shall be professionally qualified by education and have no less than five years’ experience in the fields of information technology and financial management.

13. Exercise and perform such other powers and duties as may be prescribed by law.

2005 Acts, ch 52, §2
Subsection 12 amended

8A.201 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. “Information technology” means computing and electronics applications used to process and distribute information in digital and other forms and includes information technology devices, information technology services, and value-added services.

2. “Information technology device” means equipment or associated software, including programs, languages, procedures, or associated documentation, used in operating the equipment which is designed for utilizing information stored in an electronic format. “Information technology

device” includes but is not limited to computer systems, computer networks, and equipment used for input, output, processing, storage, display, scanning, and printing.

3. “*Information technology services*” means services designed to do any of the following:

a. Provide functions, maintenance, and support of information technology devices.

b. Provide services including, but not limited to, any of the following:

(1) Computer systems application development and maintenance.

(2) Systems integration and interoperability.

(3) Operating systems maintenance and design.

(4) Computer systems programming.

(5) Computer systems software support.

(6) Planning and security relating to information technology devices.

(7) Data management consultation.

(8) Information technology education and consulting.

(9) Information technology planning and standards.

(10) Establishment of local area network and workstation management standards.

4. “*Participating agency*” means any agency other than any of the following:

a. The state board of regents and institutions operated under the authority of the state board of regents.

b. The public broadcasting division of the department of education.

c. The state department of transportation mobile radio network.

d. The department of public safety law enforcement communications systems and capitol complex security systems in use for the legislative branch.

e. The telecommunications and technology commission established in section 8D.3, with respect to information technology that is unique to the Iowa communications network.

f. The Iowa lottery authority.

g. A judicial district department of correctional services established pursuant to section 905.2.

5. “*Technology governance board*” means the board established in section 8A.204.

6. “*Value-added services*” means services that offer or provide unique, special, or enhanced value, benefits, or features to the customer or user including, but not limited to, services in which information technology is specially designed, modified, or adapted to meet the special or requested needs of the user or customer; services involving the delivery, provision, or transmission of information or data that require or involve additional processing, formatting, enhancement, compilation or security; services that provide the customer or user with enhanced accessibility, security or convenience; research and development services; and services

that are provided to support technological or statutory requirements imposed on participating agencies and other governmental entities, businesses, and the public.

2005 Acts, ch 90, §1, 2; 2005 Acts, ch 179, §142

Subsection 2 stricken and former subsections 3 – 5 renumbered as 2 –

4

NEW subsection 5

8A.204 Technology governance board — members — powers and duties.

1. *Definitions.* For purposes of this section, unless the context otherwise requires:

a. “*Agency*” means a participating agency as defined in section 8A.201.

In addition, the following definitions shall also apply:

(1) “*Large agency*” means a state agency with more than seven hundred full-time, year-round employees.

(2) “*Medium-sized agency*” means a state agency with at least seventy or more full-time, year-round employees, but not more than seven hundred permanent employees.

(3) “*Small agency*” means a state agency with less than seventy full-time, year-round employees.

b. “*Board*” means the technology governance board.

c. “*Department*” means the department of administrative services, including the information technology enterprise.

2. *Membership.*

a. The technology governance board is composed of ten members as follows:

(1) The director.

(2) The director of the department of management, or the director’s designee.

(3) Eight members appointed by the governor as follows:

(a) Three representatives from large agencies.

(b) Two representatives from medium-sized agencies.

(c) One representative from a small agency.

(d) Two public members who are knowledgeable and have experience in information technology matters.

b. (1) Members appointed pursuant to paragraph “a”, subparagraph (3), shall serve two-year staggered terms. The department shall provide, by rule, for the commencement of the term of membership for the nonpublic members. The terms of the public members shall be staggered at the discretion of the governor.

(2) Sections 69.16, 69.16A, and 69.19 shall apply to the public members of the board.

(3) Public members appointed by the governor are subject to senate confirmation.

(4) Public members appointed by the governor may be eligible to receive compensation as provided in section 7E.6.

(5) Members shall be reimbursed for actual

and necessary expenses incurred in performance of the members' duties.

(6) A director, deputy director, or chief financial officer of an agency is preferred as an appointed representative for each of the agency categories of membership pursuant to paragraph "a", subparagraph (3).

c. The director shall serve as the permanent chair of the board.

d. The technology governance board annually shall elect a vice chair from among the members of the board, by majority vote, to serve a one-year term.

e. A majority of the members of the board shall constitute a quorum.

f. Meetings of the board shall be held at the call of the chairperson or at the request of three members.

3. *Powers and duties of the board.* The powers and duties of the technology governance board as they relate to information technology services shall include, but are not limited to, all of the following:

a. On an annual basis, prepare a report to the governor, the department of management, and the general assembly regarding the total spending on technology for the previous fiscal year, the total amount appropriated for the current fiscal year, and an estimate of the amount to be requested for the succeeding fiscal year for all agencies. The report shall include a five-year projection of technology cost savings, an accounting of the level of technology cost savings for the current fiscal year, and a comparison of the level of technology cost savings for the current fiscal year with that of the previous fiscal year. This report shall be filed as soon as possible after the close of a fiscal year, and by no later than the second Monday of January of each year.

b. Work with the department of management and the state accounting enterprise of the department, pursuant to section 8A.502, to maintain the relevancy of the central budget and proprietary control accounts of the general fund of the state and special funds to information technology, as those terms are defined in section 8.2, of state government.

c. Develop and approve administrative rules governing the activities of the board. The department shall assist in development of the rules and shall adopt the rules under the department's name.

d. In conjunction with the department, develop and adopt information technology standards pursuant to section 8A.206 applicable to all agencies.

e. Make recommendations to the department regarding all of the following:

(1) Technology utility services to be implemented by the department or other agencies.

(2) Improvements to information technology service levels and modifications to the business

continuity plan for information technology operations developed by the department pursuant to section 8A.202 for agencies, and to maximize the value of information technology investments by the state.

(3) Technology initiatives for the executive branch.

f. Review the recommendations of the IowaAccess advisory council regarding rates to be charged for access to and for value-added services performed through IowaAccess, pursuant to section 8A.221. The board shall report the establishment of a new rate of change in the level of an existing rate to the department, which shall notify the department of management and the legislative services agency regarding the rate establishment or change.

g. Designate advisory groups as appropriate to assist the board in all of the following:

(1) Development and adoption of an executive branch strategic technology plan.

(2) Annual review of technology operating expenses and capital investment budgets of agencies by October 1 for the following fiscal year, and development of technology costs savings projections, accountings, and comparisons.

(3) Quarterly review of requested modifications to budgets of agencies due to funding changes.

(4) Review and approval of all requests for proposals prior to issuance for all information technology devices, hardware acquisition, information technology services, software development projects, and information technology outsourcing for agencies that exceed the greater of a total cost of fifty thousand dollars or a total involvement of seven hundred fifty agency staff hours.

(5) Development of a plan and process to improve service levels and continuity of business operations, and to maximize the value of information technology investments.

(6) Formation of internal teams to address cost-savings initiatives, including consolidation of information technology and related functions among agencies, as enacted by the technology governance board.

(7) Development of information technology standards.

(8) Development of rules, processes, and procedures for implementation of aggregate purchasing among agencies.

4. *Funding.* Activities of the technology governance board shall be funded by the information technology enterprise of the department, through the IowaAccess revolving fund created in section 8A.224, notwithstanding contrary provisions of any other law.

5. *Rules.* The department shall adopt rules as necessary to administer this section, which shall at a minimum, consistent with section 8A.221, establish a process for the submission to the board of proposed fees for value-added services

by participating agencies and other governmental entities, as well as the board's submission of recommendations regarding such fees to the department of management.

2005 Acts, ch 90, §3; 2005 Acts, ch 179, §142

Confirmation, §2.32

Dissolution of former information technology council; appointment and terms of office of new board members; meetings; 2005 Acts, ch 90, §8; 2005 Acts, ch 179, §142

Section stricken and rewritten

8A.205 Digital government.

1. The department is responsible for initiating and supporting the development of electronic commerce, electronic government, and internet applications across participating agencies and in cooperation with other governmental entities.

2. In developing the concept of digital government, the department shall do all of the following:

a. Establish standards, consistent with other state law, for the implementation of electronic commerce, including standards for electronic signatures, electronic currency, and other items associated with electronic commerce.

b. Establish guidelines for the appearance and functioning of applications.

c. Establish standards for the integration of electronic data across state agencies.

d. Foster joint development of electronic commerce and electronic government involving the public and private sectors.

e. Develop customer surveys and citizen outreach and education programs and material, and provide for citizen input regarding the state's electronic commerce and electronic government applications.

f. Provide staff support for the IowAccess advisory council.

2005 Acts, ch 19, §9

Subsection 2, paragraph a amended

8A.206 Information technology standards.

1. The department shall develop, in consultation with the technology governance board, recommended standards for consideration with respect to the procurement of information technology by all participating agencies. It is the intent of the general assembly that information technology standards be established for the purpose of guiding such procurements. Such standards, unless waived by the department, shall apply to all information technology procurements for participating agencies.

2. The office of the governor or the office of an elective constitutional or statutory officer shall consult with the department prior to procuring information technology and consider the standards recommended by the department, and provide a written report to the department relating to the office's decision regarding such acquisitions.

2005 Acts, ch 90, §4; 2005 Acts, ch 179, §142

Subsection 1 amended

8A.221 IowAccess advisory council established — duties — membership.

1. *Advisory council established.* An IowAccess advisory council is established within the department for the purpose of creating and providing a service to the citizens of this state that is the gateway for one-stop electronic access to government information and transactions, whether federal, state, or local. Except as provided in this section, IowAccess shall be a state-funded service providing access to government information and transactions. The department, in establishing the fees for value-added services, shall consider the reasonable cost of creating and organizing such government information through IowAccess.

2. *Duties.*

a. The advisory council shall do all of the following:

(1) Recommend to the technology governance board rates to be charged for access to and for value-added services performed through IowAccess.

(2) Recommend to the director the priority of projects associated with IowAccess.

(3) Recommend to the director expected outcomes and effects of the use of IowAccess and determine the manner in which such outcomes are to be measured and evaluated.

(4) Review and recommend to the director the IowAccess total budget request and ensure that such request reflects the priorities and goals of IowAccess as established by the advisory council.

(5) Review and recommend to the director all rules to be adopted by the department that are related to IowAccess.

(6) Advocate for access to government information and services through IowAccess and for data privacy protection, information ethics, accuracy, and security in IowAccess programs and services.

(7) Receive status and operations reports associated with IowAccess.

(8) Other duties as assigned by the director.

b. The advisory council shall also advise the director with respect to the operation of IowAccess and encourage and implement access to government and its public records by the citizens of this state.

c. The advisory council shall serve as a link between the users of public records, the lawful custodians of such public records, and the citizens of this state who are the owners of such public records.

d. The advisory council shall ensure that IowAccess gives priority to serving the needs of the citizens of this state.

3. *Membership.*

a. The advisory council shall be composed of nineteen members including the following:

(1) Five persons appointed by the governor

representing the primary customers of IowAccess.

(2) Six persons representing lawful custodians as follows:

(a) One person representing the legislative branch, who shall not be a member of the general assembly, to be appointed jointly by the president of the senate, after consultation with the majority and minority leaders of the senate, and by the speaker of the house of representatives, after consultation with the majority and minority leaders of the house of representatives.

(b) One person representing the judicial branch as designated by the chief justice of the supreme court.

(c) One person representing the executive branch as designated by the governor.

(d) One person to be appointed by the governor representing cities who shall be actively engaged in the administration of a city.

(e) One person to be appointed by the governor representing counties who shall be actively engaged in the administration of a county.

(f) One person to be appointed by the governor representing the federal government.

(3) Four members to be appointed by the governor representing a cross section of the citizens of the state.

(4) Four members of the general assembly, two from the senate and two from the house of representatives, with not more than one member from each chamber being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives. Legislative members shall serve in an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.

b. Members appointed by the governor are subject to confirmation by the senate and shall serve four-year staggered terms as designated by the governor. The advisory council shall annually elect its own chairperson from among the voting members of the council. A majority of the voting members of the council constitutes a quorum. Members appointed by the governor are subject to the requirements of sections 69.16, 69.16A, and 69.19. Members appointed by the governor shall be reimbursed for actual and necessary expenses incurred in performance of their duties. Such members may also be eligible to receive compensation as provided in section 7E.6.

4. This section shall not be construed to impair the right of a person to contract to purchase information or data from the Iowa court information system or any other governmental entity. This section shall not be construed to affect a data pur-

chase agreement or contract in existence on April 25, 2000.

2005 Acts, ch 90, §5; 2005 Acts, ch 179, §142

Confirmation, §2.32

Subsection 2, paragraph a, subparagraph (1) amended

8A.224 IowAccess revolving fund.

1. An IowAccess revolving fund is created in the state treasury. The revolving fund shall be administered by the department and shall consist of moneys collected by the department as fees, moneys appropriated by the general assembly, and any other moneys obtained or accepted by the department for deposit in the revolving fund. The proceeds of the revolving fund are appropriated to and shall be used by the department to maintain, develop, operate, and expand IowAccess consistent with this subchapter, and for the support of activities of the technology governance board pursuant to section 8A.204.

2. The department shall submit an annual report not later than January 31 to the members of the general assembly and the legislative services agency of the activities funded by and expenditures made from the revolving fund during the preceding fiscal year. Section 8.33 does not apply to any moneys in the revolving fund and, notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the revolving fund shall be credited to the revolving fund.

2005 Acts, ch 90, §6; 2005 Acts, ch 179, §142

For fiscal year beginning July 1, 2005, portion of certain fees for furnishing certified abstracts of certain records to be transferred to fund; IowAccess transaction fees deposited in fund; 2005 Acts, ch 173, §3

Section amended

8A.311 Competitive bidding — preferences — reciprocal application — direct purchasing.

The director shall adopt rules establishing competitive bidding procedures.

1. *a.* All equipment, supplies, or services procured by the department shall be purchased by a competitive bidding procedure as established by rule. However, the director may exempt by rule purchases of noncompetitive items and purchases in lots or quantities too small to be effectively purchased by competitive bidding. Preference shall be given to purchasing Iowa products and purchases from Iowa-based businesses if the Iowa-based business bids submitted are comparable in price to bids submitted by out-of-state businesses and otherwise meet the required specifications. If the laws of another state mandate a percentage preference for businesses or products from that state and the effect of the preference is that bids of Iowa businesses or products that are otherwise low and responsive are not selected in the other state, the same percentage preference shall be applied to Iowa businesses and products when businesses or products from that other state are bid to supply Iowa requirements.

b. The department and each state agency shall provide notice in an electronic format available to the public of every competitive bidding opportunity offered by the department or the state agency as provided in section 73.2, subsection 2. The department may establish by rule requirements relating to such notice. A competitive bidding opportunity that is not preceded by a notice that satisfies the requirements of this paragraph is void and shall be rebid. A request for proposals for architectural or engineering services may be posted electronically by a department or state agency.

2. The director may also exempt the purchase of an item or service from a competitive bidding procedure when the director determines that the best interests of the state will be served by the exemption which shall be based on one of the following:

a. An immediate or emergency need existing for the item or service.

b. A need to protect the health, safety, or welfare of persons occupying or visiting a public improvement or property located adjacent to the public improvement.

3. a. The director may contract for the purchase of items or services by the department. Contracts for the purchase of items or services shall be awarded on the basis of the lowest competent bid. Contracts not based on competitive bidding shall be awarded on the basis of bidder competence and reasonable price.

b. Architectural and engineering services shall be procured in a reasonable manner, as the director by rule may determine, on the basis of competence and qualification for the type of services required and for a fair and reasonable price.

4. The director may enter into a cooperative procurement agreement with another governmental entity relating to the procurement of goods or services, whether the goods or services are for the use of the department or other governmental entities. The cooperative procurement agreement shall clearly specify the purpose of the agreement and the method by which that purpose will be accomplished. Any power exercised under the agreement shall not exceed the power granted to any party to the agreement.

5. The director may refuse all bids on any item or service and request new bids.

6. The director shall establish by rule the amount of security, if any, to accompany a bid or as a condition precedent to the awarding of any contract and the circumstances under which a security will be returned to the bidder or forfeited to the state.

7. The director shall adopt rules providing a method for the various state agencies to file with the department a list of those supplies, equipment, machines, and all items needed to properly perform their governmental duties and functions.

8. The director shall furnish a list of specifications, prices, and discounts of contract items to

any governmental subdivision which shall be responsible for payment to the vendor under the terms and conditions outlined in the state contract.

9. The director shall adopt rules providing that any state agency may, upon request, purchase directly from a vendor if the direct purchasing is as economical or more economical than purchasing through the department, or upon a showing that direct purchasing by the state agency would be in the best interests of the state due to an immediate or emergency need. The rules shall include a provision permitting a state agency to purchase directly from a vendor, on the agency's own authority, if the purchase will not exceed five thousand dollars and the purchase will contribute to the agency complying with or exceeding the targeted small business procurement goals under sections 73.15 through 73.21.

Any member of the executive council may bring before the executive council for review a decision of the director granting a state agency request for direct purchasing. The executive council shall hear and review the director's decision in the same manner as an appeal filed by an aggrieved bidder, except that the three-day period for filing for review shall not apply.

10. a. When the estimated total cost of construction, erection, demolition, alteration, or repair of a public improvement exceeds twenty-five thousand dollars, the department shall solicit bids on the proposed improvement by publishing an advertisement in a print format. The advertisement shall appear in two publications in a newspaper published in the county in which the work is to be done. The first advertisement for bids appearing in a newspaper shall be not less than fifteen days prior to the date set for receiving bids. The department may publish an advertisement in an electronic format as an additional method of soliciting bids under this paragraph.

b. In awarding a contract under this subsection, the department shall let the work to the lowest responsible bidder submitting a sealed proposal. However, if the department considers the bids received not to be acceptable, all bids may be rejected and new bids requested. A bid shall be accompanied by a certified or cashier's check or bid bond in an amount designated in the advertisement for bids as security that the bidder will enter into a contract for the work requested. The department shall establish the bid security in an amount equal to at least five percent, but not more than ten percent of the estimated total cost of the work. The certified or cashier's checks or bid bonds of unsuccessful bidders shall be returned as soon as the successful bidder is determined. The certified or cashier's check or bid bond of the successful bidder shall be returned upon execution of the contract. This subsection does not apply to the construction, erection, demolition, alteration, or repair of a public improvement when the contract-

ing procedure for the work requested is otherwise provided for in law.

11. The state and its political subdivisions shall give preference to purchasing Iowa products and purchasing from Iowa-based businesses if the bids submitted are comparable in price to those submitted by other bidders and meet the required specifications.

12. The director shall adopt rules which require that each bid received for the purchase of items purchased by the department includes a product content statement which provides the percentage of the content of the item which is reclaimed material.

13. The director shall review and, where necessary, revise specifications used by state agencies to procure products in order to ensure all of the following:

a. The procurement of products containing recovered materials, including but not limited to lubricating oils, retread tires, building insulation materials, and recovered materials from waste tires. The specifications shall be revised if they restrict the use of alternative materials, exclude recovered materials, or require performance standards which exclude products containing recovered materials unless the agency seeking the product can document that the use of recovered materials will hamper the intended use of the product.

b. The procurement by state agencies of bio-based hydraulic fluids, greases, and other industrial lubricants manufactured from soybeans in accordance with the requirements of section 8A.316.

14. A bidder awarded a state construction contract shall disclose the names of all subcontractors, who will work on the project being bid, within forty-eight hours after the award of the contract.

If a subcontractor named by a bidder awarded a state construction contract is replaced, or if the cost of work to be done by a subcontractor is reduced, the bidder shall disclose the name of the new subcontractor or the amount of the reduced cost.

15. A state agency shall make every effort to purchase those products produced for sale by sheltered workshops, work activity centers, and other special programs funded in whole or in part by public moneys that employ persons with mental retardation or other developmental disabilities or mental illness if the products meet the required specifications.

16. A state agency shall make every effort to purchase products produced for sale by employers of persons in supported employment.

17. The department shall not award a contract to a bidder for a construction, reconstruction, demolition, or repair project or improvement with an estimated cost that exceeds twenty-five thousand

dollars in which the bid requires the use of inmate labor supplied by the department of corrections, but not employed by private industry pursuant to section 904.809, to perform the project or improvement.

18. Life cycle cost and energy efficiency shall be included in the criteria used by the department, institutions under the control of the state board of regents, the state department of transportation, the department for the blind, and other state agencies in developing standards and specifications for purchasing energy-consuming products. For purposes of this subsection, the life cycle costs of American motor vehicles shall be reduced by five percent in order to determine if the motor vehicle is comparable to foreign-made motor vehicles. "*American motor vehicles*" includes those vehicles manufactured in this state and those vehicles in which at least seventy percent of the value of the motor vehicle was manufactured in the United States or Canada and at least fifty percent of the motor vehicle sales of the manufacturer are in the United States or Canada. In determining the life cycle costs of a motor vehicle, the costs shall be determined on the basis of the bid price, the resale value, and the operating costs based upon a useable life of five years or seventy-five thousand miles, whichever occurs first.

19. Preference shall be given to purchasing American-made products and purchases from American-based businesses if the life cycle costs are comparable to those products of foreign businesses and which most adequately fulfill the department's need.

2005 Acts, ch 52, §3; 2005 Acts, ch 100, §1

Preferences; see also chapter 73, §73A.21

Subsection 1 amended

NEW subsection 4 and former subsections 4 – 18 renumbered as 5 – 19

8A.316 Lubricants and oils — preferences.

The department shall do all of the following:

1. Develop its procedures and specifications for the purchase of lubricating oil and industrial oil to eliminate exclusion of recycled oils and any requirement that oils be manufactured from virgin materials.

2. Require that purchases of lubricating oil and industrial oil be made from the seller whose oil product contains the greatest percentage of recycled oil, unless one of the following circumstances regarding a specific oil product containing recycled oil exists:

a. The product is not available within a reasonable period of time or in quantities necessary or in container sizes appropriate to meet a state agency's needs.

b. The product does not meet the performance requirements or standards recommended by the equipment or vehicle manufacturer, including any warranty requirements.

c. The product is available only at a cost greater than one hundred five percent of the cost of comparable virgin oil products.

3. Establish and maintain a preference program for procuring oils containing the maximum content of recycled oil. The preference program shall include but is not limited to all of the following:

a. The inclusion of the preferences for recycled oil products in publications used to solicit bids from suppliers.

b. The provision of a description of the recycled oil procurement program at bidders' conferences.

c. Discussion of the preference program in lubricating oil and industrial oil procurement solicitations or invitations to bid.

d. Efforts to inform industry trade associations about the preference program.

4. a. Provide that when purchasing hydraulic fluids, greases, and other industrial lubricants, the department or a state agency authorized by the department to directly purchase hydraulic fluids, greases, and other industrial lubricants shall give preference to purchasing bio-based hydraulic fluids, greases, and other industrial lubricants manufactured from soybeans.

b. Provide for the implementation of requirements necessary in order to carry out this subsection by the department or state agency making the purchase, which shall include all of the following:

(1) Including the preference requirements in publications used to solicit bids for hydraulic fluids, greases, and other industrial lubricants.

(2) Describing the preference requirements at bidders' conferences in which bids for the sale of hydraulic fluids, greases, and other industrial lubricants are sought by the department or authorized state agency.

(3) Discussing the preference requirements in procurement solicitations or invitations to bid for hydraulic fluids, greases, and other industrial lubricants.

(4) Informing industry trade associations about the preference requirements.

c. As used in this subsection, unless the context otherwise requires:

(1) "*Bio-based hydraulic fluids, greases, and other industrial lubricants*" means the same as defined by the United States department of agriculture, if the department has adopted such a definition. If the United States department of agriculture has not adopted a definition, "*bio-based hydraulic fluids, greases, and other industrial lubricants*" means hydraulic fluids, greases, and other lubricants containing a minimum of fifty-one percent soybean oil.

(2) "*Other industrial lubricants*" means lubricants used or applied to machinery.

2005 Acts, ch 19, §10
Subsection 1 amended

8A.321 Physical resources and facility management — director duties — appropriation.

In managing the physical resources of government, the director shall perform all of the following duties:

1. Provide for supervision over the custodians and other employees of the department in and about the state laboratories facility in Ankeny and in and about the capitol and other state buildings at the seat of government, except the buildings and grounds referred to in section 216B.3, subsection 6.

2. Institute, in the name of the state, and with the advice and consent of the attorney general, civil and criminal proceedings against any person for injury or threatened injury to any public property, including but not limited to intangible and intellectual property, under the person's control.

3. Under the direction of the governor, provide, furnish, and pay for public utilities service, heat, maintenance, minor repairs, and equipment in operating and maintaining the official residence of the governor of Iowa.

4. Contract, with the approval of the executive council, for the repair, remodeling, or, if the condition warrants, demolition of all buildings and grounds of the state at the seat of government, at the state laboratories facility in Ankeny, and the institutions of the department of human services and the department of corrections for which no specific appropriation has been made, if the cost of repair, remodeling, or demolition will not exceed one hundred thousand dollars when completed. The cost of repair projects for which no specific appropriation has been made shall be paid from the fund provided in section 7D.29.

5. Dispose of all personal property of the state under the director's control as provided by section 8A.324 when it becomes unnecessary or unfit for further use by the state. If the director concludes that the personal property is contaminated, contains hazardous waste, or is hazardous waste, the director may charge the state agency responsible for the property for removal and disposal of the personal property. The director shall adopt rules establishing the procedures for inspecting, selecting, and removing personal property from state agencies or from state storage.

6. a. Lease all buildings and office space necessary to carry out the provisions of this subchapter or necessary for the proper functioning of any state agency at the seat of government. For state agencies at the seat of government, the director may lease buildings and office space in Polk county or in a county contiguous to Polk county. If no specific appropriation has been made, the proposed lease shall be submitted to the executive council for approval. The cost of any lease for

which no specific appropriation has been made shall be paid from the fund provided in section 7D.29.

b. When the general assembly is not in session, the director may request moneys from the executive council for moving state agencies located at the seat of government from one location to another. The request may include moving costs, telecommunications costs, repair costs, or any other costs relating to the move. The executive council may approve and shall pay the costs from funds provided in section 7D.29 if it determines the agency or department has no available funds for these expenses.

c. Coordinate the leasing of buildings and office space by state agencies throughout the state and develop cooperative relationships with the state board of regents in order to promote the colocation of state agencies.

7. Unless otherwise provided by law, coordinate the location, design, plans and specifications, construction, and ultimate use of the real or personal property to be purchased by a state agency for whose benefit and use the property is being obtained. If the purchase of real or personal property is to be financed pursuant to section 12.28, the department shall cooperate with the treasurer of state in providing the information necessary to complete the financing of the property.

A contract for acquisition, construction, erection, demolition, alteration, or repair by a private person of real or personal property to be lease-purchased by the treasurer of state pursuant to section 12.28 is exempt from section 8A.311, subsections 1 and 10, unless the lease-purchase contract is funded in advance by a deposit of the lessor's moneys to be administered by the treasurer of state under a lease-purchase contract which requires rent payments to commence upon delivery of the lessor's moneys to the lessee.

8. With the authorization of a constitutional majority of each house of the general assembly and approval by the governor, dispose of real property belonging to the state and its state agencies upon terms, conditions, and consideration as the director may recommend. If real property subject to sale under this subsection has been purchased or acquired from appropriated funds, the proceeds of the sale shall be deposited with the treasurer of state and credited to the general fund of the state or other fund from which appropriated. There is appropriated from that same fund, with the prior approval of the executive council and in cooperation with the director, a sum equal to the proceeds so deposited and credited to the state agency to which the disposed real property belonged or by which it was used, for purposes of the state agency.

9. Subject to the selection procedures of section 12.30, employ financial consultants, banks, insurers, underwriters, accountants, attorneys, and other advisors or consultants necessary to im-

plement the provisions of subsection 7.

10. Prepare annual status reports for all ongoing capital projects of all state agencies, as defined in section 8.3A, and submit the status reports to the legislative capital projects committee.

11. Call upon any state agency, as defined in section 8.3A, for assistance the director may require in performing the director's duties under subsection 10 regarding capital project status reports. All state agencies, upon the request of the director and with the approval of the director of the department of management, shall assist the director and are authorized to make available to the director any existing studies, surveys, plans, data, and other materials in the possession of the state agencies which are relevant to the director's duties.

12. In carrying out the requirements of section 64.6, purchase an individual or a blanket surety bond insuring the fidelity of state officers. The department may self-assume or self-insure fidelity exposures for state officials and employees. A state official is deemed to have furnished surety if the official has been covered by a program of insurance or self-insurance established by the department. To the extent possible, all bonded state employees shall be covered under one or more blanket bonds or position schedule bonds.

13. Review the management of state property loss exposures and state liability risk exposures for the capitol complex. Insurance coverage may include self-insurance or any type of insurance protection sold by insurers, including, but not limited to, full coverage, partial coverage, coinsurance, reinsurance, and deductible insurance coverage.

14. Establish a monument maintenance account in the state treasury under the control of the department. Funds for the maintenance of a state monument, whether received by gift, devise, bequest, or otherwise, shall be deposited in the account. Funds in the account shall be deposited in an interest-bearing account. Notwithstanding section 12C.7, interest earned on the account shall be deposited in the account and shall be used to maintain the designated monument. Any maintenance funds for a state monument held by the state and interest earned on the funds shall be used to maintain the designated monument. Notwithstanding section 8.33, funds in the monument maintenance account at the end of a fiscal year shall not revert to the general fund of the state.

Section not amended; internal reference change applied

8A.323 Parking regulations.

1. The director shall establish, publish, and enforce rules regulating, restricting, or prohibiting the use by state officials, state employees, and the public, of motor vehicle parking facilities at the state capitol complex and at the state laboratories facility in Ankeny. The assignment of legisla-

tive parking spaces shall be under the control of the legislative council. The rules established by the director may establish fines for violations and a procedure for payment of the fines. The director may order payment of a fine and enforce the order in the district court.

2. Motor vehicles parked in violation of the rules may be removed without the owner's or operator's consent and at the owner's or operator's expense. Motor vehicles removed and not claimed within thirty days of their removal or vehicles abandoned within the capitol grounds may be disposed of in accordance with the provisions of sections 321.85 through 321.91.

3. The parking rules established shall be posted in conspicuous places at the capitol complex and at the state laboratories facility in Ankeny, as applicable. Copies of the rules shall be made available to all state officials and employees and any other person who requests a copy of the rules.

4. Except as provided in subsection 5, all fines collected by the department shall be forwarded to the treasurer of state and deposited in the general fund of the state.

5. Any fine that remains unpaid upon becoming delinquent may be collected by the department pursuant to the setoff procedures provided for in section 8A.504. For purposes of this subsection, a fine becomes delinquent if it has not been paid within thirty days of the date of the issuance of the parking citation, unless a written request for a hearing is filed as provided pursuant to the rules of the department. If an appeal is filed and the citation is upheld, the fine becomes delinquent ten days after the issuance of the final decision on the appeal or thirty-one days after the date of the issuance of the parking citation, whichever is later.

2005 Acts, ch 52, §4, 5
Subsection 4 amended
NEW subsection 5

8A.324 Disposal of personal property.

The director may dispose of personal property of the state under the director's control by any of the following means:

1. The director may dispose of unfit or unnecessary personal property by sale. Proceeds from the sale of personal property shall be deposited in the general fund of the state.

2. If the director concludes that the personal property has little or no value, the director may enter into an agreement with a not-for-profit organization or governmental agency to dispose of the personal property. The not-for-profit organization or governmental agency may charge the state agency in control of the property with the cost of removing and transporting the property. Title to the personal property shall transfer when the personal property is in the possession of the not-for-profit organization or governmental agency. If a governmental agency adds value to the property

transferred to it and sells it, the proceeds from the sale shall be deposited with the governmental agency and not in the general fund of the state.

A not-for-profit organization or governmental agency that enters into an agreement with the director pursuant to this subsection may sell or otherwise transfer the personal property received from the department to any person that the department would be able to sell or otherwise transfer such property to under this chapter, including, but not limited to, the general public. The authority granted to sell or otherwise transfer personal property pursuant to this paragraph supersedes any other restrictions applicable to the not-for-profit organization or governmental entity, but only for purposes of the personal property received from the department.

3. The director may dispose of presses, printing equipment, printing supplies, and other machinery or equipment used in the printing operation.

2005 Acts, ch 52, §6
Subsection 2, NEW unnumbered paragraph 2

PART 4

PRINTING

8A.341 State printing — duties.

The director shall do all of the following as it relates to printing:

1. Provide general supervision of all matters pertaining to public printing, including the enforcement of contracts for printing, except as otherwise provided by law. The supervision shall include providing guidelines for the letting of contracts for printing, the manner, form, style, and quantity of public printing, and the specifications and advertisements for public printing. In addition, the director shall have charge of office equipment and supplies and of the stock, if any, required in connection with printing contracts.

2. If money is appropriated for this purpose, by November 1 of each year supply a report which contains the name, gender, county, or city of residence when possible, official title, salary received during the previous fiscal year, base salary as computed on July 1 of the current fiscal year, and traveling and subsistence expense of the personnel of each of the departments, boards, and commissions of the state government except personnel who receive an annual salary of less than one thousand dollars. The number of the personnel and the total amount received by them shall be shown for each department in the report. All employees who have drawn salaries, fees, or expense allowances from more than one department or subdivision shall be listed separately under the proper departmental heading. On the request of the director, the head of each department, board, or commission shall furnish the data covering that agency. The report shall be distributed upon request without charge

in an electronic medium to each caucus of the general assembly, the legislative services agency, the chief clerk of the house of representatives, and the secretary of the senate. Copies of the report shall be made available to other persons in an electronic medium upon payment of a fee, which shall not exceed the cost of providing the copy of the report. Sections 22.2 through 22.6 apply to the report. All funds from the sale of the report shall be deposited in the printing revolving fund established in section 8A.345.

3. Deposit receipts from the sale of presses, printing equipment, printing supplies, and other machinery or equipment used in the printing operation in the printing revolving fund established in section 8A.345.

2005 Acts, ch 52, §7

Style, publication, and distribution of Iowa Code and Code Supplement, Iowa Acts, Iowa administrative code, Iowa administrative bulletin, and Iowa court rules; §2.42, 2A.5, 2A.6

Subsection 2 amended

8A.412 Merit system — applicability — exceptions.

The merit system shall apply to all employees of the state and to all positions in state government now existing or hereafter established. In addition, the director shall negotiate an agreement with the director of the department for the blind concerning the applicability of the merit system to the professional employees of the department for the blind. However, the merit system shall not apply to the following:

1. The general assembly, employees of the general assembly, other officers elected by popular vote, and persons appointed to fill vacancies in elective offices.
2. All judicial officers and court employees.
3. The staff of the governor.
4. All board members and commissioners whose appointments are provided for by the Code.
5. All presidents, deans, directors, teachers, professional and scientific personnel, and student employees under the jurisdiction of the state board of regents. The state board of regents shall adopt rules not inconsistent with the objectives of this subchapter for all of its employees not cited specifically in this subsection. The rules are subject to approval by the director. If at any time the director determines that the state board of regents merit system rules do not comply with the intent of this subchapter, the director may direct the board to correct the rules. The rules of the board are not in compliance until the corrections are made.
6. All appointments which are by law made by the governor.
7. All personnel of the armed services under state jurisdiction.
8. Persons who are paid a fee on a contract-for-services basis.

9. Seasonal employees appointed during a state agency's designated six-month seasonal employment period during the same annual twelve-month period, as approved by the director.

10. Residents, patients, or inmates working in state institutions, or persons on parole working in work experience programs.

11. Professional employees under the supervision of the attorney general, the state public defender, the auditor of state, the treasurer of state, and the public employment relations board. However, employees of the consumer advocate division of the department of justice, other than the consumer advocate, are subject to the merit system.

12. Production and engineering personnel under the jurisdiction of the Iowa public broadcasting board.

13. Members of the state patrol and other peace officers employed by the department of public safety. The commissioner of public safety shall adopt rules not inconsistent with the objectives of this subchapter for the persons described in this subsection.

14. Professional employees of the arts division of the department of cultural affairs.

15. The chief deputy administrative officer and each division administrator of each state agency not otherwise specifically provided for in this section, and physicians not otherwise specifically provided for in this section. As used in this subsection, "*division administrator*" means a principal administrative or policymaking position designated by a chief administrative officer and approved by the director or as specified by law.

16. All confidential employees.

17. Other employees specifically exempted by law.

18. The administrator and the deputy administrator of the credit union division of the department of commerce, all members of the credit union review board, and all employees of the credit union division.

19. The superintendent of the banking division of the department of commerce, all members of the state banking council, and all employees of the banking division.

20. Chief deputy industrial commissioners.

21. The appointee serving as the coordinator of the office of renewable fuels and coproducts, as provided in section 159A.3.

22. All employees of the Iowa state fair authority.

23. Up to six nonprofessional employees designated at the discretion of each statewide elected official.

24. The position classifications of employees of statewide elected officials that were exempt from the merit system as of June 30, 1994, shall remain exempt and any employees subsequently hired to fill any exempt position vacancies shall be classi-

fied as exempt employees.

2005 Acts, ch 35, §31

Equal opportunity and special appointments; §19B.2

Terminology change applied

8A.502 Financial administration duties.

The department shall provide for the efficient management and administration of the financial resources of state government and shall have and assume the following powers and duties:

1. *Centralized accounting system.* To assume the responsibilities related to a centralized accounting system for state government.

2. *Setoff procedures.* To establish and maintain a setoff procedure as provided in section 8A.504.

3. *Cost allocation system.* To establish a cost allocation system as provided in section 8A.505.

4. *Collection and payment of funds—monthly payments.* To control the payment of all moneys into the state treasury, and all payments from the state treasury by the preparation of appropriate warrants, or warrant checks, directing such collections and payment, and to advise the treasurer of state monthly in writing of the amount of public funds not currently needed for operating expenses. Whenever the state treasury includes state funds that require distribution to counties, cities, or other political subdivisions of this state, and the counties, cities, and other political subdivisions certify to the director that warrants will be stamped for lack of funds within the thirty-day period following certification, the director may partially distribute the funds on a monthly basis. Whenever the law requires that any funds be paid by a specific date, the director shall prepare a final accounting and shall make a final distribution of any remaining funds prior to that date.

5. *Preaudit system.* To establish and fix a reasonable imprest cash fund for each state department and institution for disbursement purposes where needed. These revolving funds shall be reimbursed only upon vouchers approved by the director. It is the purpose of this subsection to establish a preaudit system of settling all claims against the state, but the preaudit system is not applicable to any of the following:

a. Institutions under the control of the state board of regents.

b. The state fair board as established in chapter 173.

c. The Iowa dairy industry commission as established in chapter 179, the Iowa beef cattle producers association as established in chapter 181, the Iowa pork producers council as established in chapter 183A, the Iowa egg council as established in chapter 184, the Iowa turkey marketing council as established in chapter 184A, the Iowa soybean association as provided in chapter 185, and the Iowa corn promotion board as established in chapter 185C.

6. *Audit of claims.* To set rules and proce-

dures for the preaudit of claims by individual agencies or organizations. The director reserves the right to refuse to accept incomplete or incorrect claims and to review, preaudit, or audit claims as determined by the director.

7. *Contracts.* To certify, record, and encumber all formal contracts to prevent overcommitment of appropriations and allotments.

8. *Accounts.* To keep the central budget and proprietary control accounts of the general fund of the state and special funds, as defined in section 8.2, of the state government. Upon elimination of the state deficit under generally accepted accounting principles, including the payment of items budgeted in a subsequent fiscal year which under generally accepted accounting principles should be budgeted in the current fiscal year, the recognition of revenues received and expenditures paid and transfers received and paid within the time period required pursuant to section 8.33 shall be in accordance with generally accepted accounting principles. Budget accounts are those accounts maintained to control the receipt and disposition of all funds, appropriations, and allotments. Proprietary accounts are those accounts relating to assets, liabilities, income, and expense. For each fiscal year, the financial position and results of operations of the state shall be reported in a comprehensive annual financial report prepared in accordance with generally accepted accounting principles, as established by the governmental accounting standards board.

9. *Fair board and board of regents.* To control the financial operations of the state fair board and the institutions under the state board of regents:

a. By charging all warrants issued to the respective educational institutions and the state fair board to an advance account to be further accounted for and not as an expense which requires no further accounting.

b. By charging all collections made by the educational institutions and state fair board to the respective advance accounts of the institutions and state fair board, and by crediting all such repayment collections to the respective appropriations and special funds.

c. By charging all disbursements made to the respective allotment accounts of each educational institution or state fair board and by crediting all such disbursements to the respective advance and inventory accounts.

d. By requiring a monthly abstract of all receipts and of all disbursements, both money and stores, and a complete account current each month from each educational institution and the state fair board.

10. *Entities representing agricultural producers.* To control the financial operations of the Iowa dairy industry commission as provided in chapter 179, the Iowa beef cattle producers association as provided in chapter 181, the Iowa pork

producers council as provided in chapter 183A, the Iowa egg council as provided in chapter 184, the Iowa turkey marketing council as provided in chapter 184A, the Iowa soybean association as provided in chapter 185, and the Iowa corn promotion board as provided in chapter 185C.

11. *Custody of records.* To have the custody of all books, papers, records, documents, vouchers, conveyances, leases, mortgages, bonds, and other securities appertaining to the fiscal affairs and property of the state, which are not required to be kept in some other office.

12. *Interest of the permanent school fund.* To transfer the interest of the permanent school fund to the credit of the interest for Iowa schools fund.

13. *Forms.* To prescribe all accounting and business forms and the system of accounts and reports of financial transactions by all departments and agencies of the state government other than those of the legislative branch.

14. *Federal Cash Management and Improvement Act administrator.* To serve as administrator for state actions relating to the federal Cash Management and Improvement Act of 1990, Pub. L. No. 101-453, as codified in 31 U.S.C. § 6503. The director shall perform the following duties relating to the federal law:

a. Act as the designated representative of the state in the negotiation and administration of contracts between the state and federal government relating to the federal law.

b. Modify the centralized statewide accounting system and develop, or require to be developed by the appropriate departments of state government, the reports and procedures necessary to complete the managerial and financial reports required to comply with the federal law.

There is annually appropriated from the general fund of the state to the department an amount sufficient to pay interest costs that may be due the federal government as a result of implementation of the federal law. This paragraph does not authorize the payment of interest from the general fund of the state for any departmental revolving, trust, or special fund where monthly interest earnings accrue to the credit of the departmental revolving, trust, or special fund. For any departmental revolving, trust, or special fund where monthly interest is accrued to the credit of the fund, the director may authorize a supplemental expenditure to pay interest costs from the individual fund which are due the federal government as a result of implementation of the federal law.

2005 Acts, ch 179, §104, 105
Subsection 5, paragraph c amended
Subsection 10 amended

8A.504 Setoff procedures.

1. *Definitions.* As used in this section, unless the context otherwise requires:

a. “Collection entity” means the department of

administrative services and any other state agency that maintains a separate accounting system and elects to establish a debt collection setoff procedure for collection of debts owed to the state or its agencies.

b. “Person” does not include a state agency.

c. “Qualifying debt” includes, but is not limited to, the following:

(1) Any debt, which is assigned to the department of human services, or which the child support recovery unit is otherwise attempting to collect, or which the foster care recovery unit of the department of human services is attempting to collect on behalf of a child receiving foster care provided by the department of human services.

(2) An amount that is due because of a default on a guaranteed student or parental loan under chapter 261.

(3) Any debt which is in the form of a liquidated sum due, owing, and payable to the clerk of the district court.

d. “State agency” means a board, commission, department, including the department of administrative services, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa comprehensive annual financial report. “State agency” does include the clerk of the district court as it relates to the collection of a qualifying debt. “State agency” does not include the general assembly, the governor, or any political subdivision of the state, or its offices and units.

2. *Setoff procedure.* The collection entity shall establish and maintain a procedure to set off against any claim owed to a person by a state agency any liability of that person owed to a state agency, a support debt being enforced by the child support recovery unit pursuant to chapter 252B, or such other qualifying debt. The procedure shall only apply when at the discretion of the director it is feasible. The procedure shall meet the following conditions:

a. Before setoff, a person’s liability to a state agency and the person’s claim on a state agency shall be in the form of a liquidated sum due, owing, and payable.

b. Before setoff, the state agency shall obtain and forward to the collection entity the full name and social security number of the person liable to it or to whom a claim is owing who is a natural person. If the person is not a natural person, before setoff, the state agency shall forward to the collection entity the information concerning the person as the collection entity shall, by rule, require. The collection entity shall cooperate with other state agencies in the exchange of information relevant to the identification of persons liable to or claimants of state agencies. However, the collection entity shall provide only relevant information required by a state agency. The information shall be held in confidence and used for the purpose of set-off only. Section 422.72, subsection 1, does not ap-

ply to this paragraph.

c. Before setoff, a state agency shall, at least annually, submit to the collection entity the information required by paragraph “b” along with the amount of each person’s liability to and the amount of each claim on the state agency. The collection entity may, by rule, require more frequent submissions.

d. Before setoff, the amount of a person’s claim on a state agency and the amount of a person’s liability to a state agency shall constitute a minimum amount set by rule of the collection entity.

e. Upon submission of an allegation of liability by a state agency, the collection entity shall notify the state agency whether the person allegedly liable is entitled to payment from a state agency, and, if so entitled, shall notify the state agency of the amount of the person’s entitlement and of the person’s last address known to the collection entity. Section 422.72, subsection 1, does not apply to this paragraph.

f. Upon notice of entitlement to a payment, the state agency shall send written notification to that person of the state agency’s assertion of its rights to all or a portion of the payment and of the state agency’s entitlement to recover the liability through the setoff procedure, the basis of the assertion, the opportunity to request that a jointly or commonly owned right to payment be divided among owners, and the person’s opportunity to give written notice of intent to contest the amount of the allegation. The state agency shall send a copy of the notice to the collection entity. A state agency subject to chapter 17A shall give notice, conduct hearings, and allow appeals in conformity with chapter 17A.

However, upon submission of an allegation of the liability of a person which is owing and payable to the clerk of the district court and upon the determination by the collection entity that the person allegedly liable is entitled to payment from a state agency, the collection entity shall send written notification to the person which states the assertion by the clerk of the district court of rights to all or a portion of the payment, the clerk’s entitlement to recover the liability through the setoff procedure, the basis of the assertions, the person’s opportunity to request within fifteen days of the mailing of the notice that the collection entity divide a jointly or commonly owned right to payment between owners, the opportunity to contest the liability to the clerk by written application to the clerk within fifteen days of the mailing of the notice, and the person’s opportunity to contest the collection entity’s setoff procedure.

g. Upon the timely request of a person liable to a state agency or of the spouse of that person and upon receipt of the full name and social security number of the person’s spouse, a state agency shall notify the collection entity of the request to divide a jointly or commonly owned right to payment. Any jointly or commonly owned right to payment

is rebuttably presumed to be owned in equal portions by its joint or common owners.

h. The collection entity shall, after the state agency has sent notice to the person liable or, if the liability is owing and payable to the clerk of the district court, the collection entity has sent notice to the person liable, set off the amount owed to the agency against any amount which a state agency owes that person. The collection entity shall refund any balance of the amount to the person. The collection entity shall periodically transfer amounts set off to the state agencies entitled to them. If a person liable to a state agency gives written notice of intent to contest an allegation, a state agency shall hold a refund or rebate until final disposition of the allegation. Upon completion of the setoff, a state agency shall notify in writing the person who was liable or, if the liability is owing and payable to the clerk of the district court, shall comply with the procedures as provided in paragraph “j”.

i. The department of revenue’s existing right to credit against tax due or to become due under section 422.73 is not to be impaired by a right granted to or a duty imposed upon the collection entity or other state agency by this section. This section is not intended to impose upon the collection entity or the department of revenue any additional requirement of notice, hearing, or appeal concerning the right to credit against tax due under section 422.73.

j. If the alleged liability is owing and payable to the clerk of the district court and setoff as provided in this section is sought, all of the following shall apply:

(1) The judicial branch shall prescribe procedures to permit a person to contest the amount of the person’s liability to the clerk of the district court.

(2) The collection entity shall, except for the procedures described in subparagraph (1), prescribe any other applicable procedures concerning setoff as provided in this subsection.

(3) Upon completion of the setoff, the collection entity shall file, at least monthly, with the clerk of the district court a notice of satisfaction of each obligation to the full extent of all moneys collected in satisfaction of the obligation. The clerk shall record the notice and enter a satisfaction for the amounts collected and a separate written notice is not required.

3. In the case of multiple claims to payments filed under this section, priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit, next priority shall be given to claims filed by the college student aid commission, next priority shall be given to claims filed by the investigations division of the department of inspections and appeals, next priority shall be given to claims filed by a clerk of the district court, and last priority shall be given to claims filed by other state agencies. In the case of

multiple claims in which the priority is not otherwise provided by this subsection, priority shall be determined in accordance with rules to be established by the director.

4. The director shall have the authority to enter into reciprocal agreements with the departments of revenue of other states that have enacted legislation that is substantially equivalent to the setoff procedure provided in this section for the recovery of an amount due because of a default on a guaranteed student or parental loan under chapter 261. A reciprocal agreement shall also be approved by the college student aid commission. The agreement shall authorize the department to pro-

vide by rule for the setoff of state income tax refunds or rebates of defaulters from states with which Iowa has a reciprocal agreement and to provide for sending lists of names of Iowa defaulters to the states with which Iowa has a reciprocal agreement for setoff of that state's income tax refunds.

5. Under substantive rules established by the director, the department shall seek reimbursement from other state agencies to recover its costs for setting off liabilities.

Agreements with political subdivisions to be eligible to participate in set-off procedures; 2005 Acts, ch 52, §8
Section not amended; footnote added

CHAPTER 8D

IOWA COMMUNICATIONS NETWORK

8D.2 Definitions.

When used in this chapter, unless the context otherwise requires:

1. *"Commission"* means the Iowa telecommunications and technology commission established in section 8D.3.

2. *"Director"* means the executive director appointed pursuant to section 8D.4.

3. *"Network"* means the Iowa or state communications network.

4. *"Private agency"* means an accredited non-public school, a nonprofit institution of higher education eligible for tuition grants, or a hospital licensed pursuant to chapter 135B or a physician clinic to the extent provided in section 8D.13, subsection 16.

5. *a. "Public agency"* means a state agency, an institution under the control of the board of regents, the judicial branch as provided in section 8D.13, subsection 17, a school corporation, a city library, a library service area as provided in chapter 256, a county library as provided in chapter 336, or a judicial district department of correctional services established in section 905.2, to the extent provided in section 8D.13, subsection 15, an agency of the federal government, or a United States post office which receives a federal grant for pilot and demonstration projects.

b. For the purposes of this chapter, *"public agency"* also includes any homeland security or defense facility or disaster response agency established by the administrator of the homeland security and emergency management division of the department of public defense or the governor or any facility connected with a security or defense system or disaster response as required by the administrator of the homeland security and emergency management division of the department of public defense or the governor.

6. *"State communications"* refers to the trans-

mission of voice, data, video, the written word or other visual signals by electronic means but does not include radio and television facilities and other educational telecommunications systems and services including narrowcast and broadcast systems under the public broadcasting division of the department of education, department of transportation distributed data processing and mobile radio network, or law enforcement communications systems.

2005 Acts, ch 179, §51
Subsection 5, paragraph b amended

8D.3 Iowa telecommunications and technology commission — members — duties.

1. *Commission established.* A telecommunications and technology commission is established with the sole authority to supervise the management, development, and operation of the network and ensure that all components of the network are technically compatible. The management, development, and operation of the network shall not be subject to the jurisdiction or control of any other state agency. However, the commission is subject to the general operations practices and procedures which are generally applicable to other state agencies.

The commission shall ensure that the network operates in an efficient and responsible manner consistent with the provisions of this chapter for the purpose of providing the best economic service attainable to the network users consistent with the state's financial capacity. The commission shall ensure that educational users and the use, design, and implementation for educational applications be given the highest priority concerning use of the network. The commission shall provide for the centralized, coordinated use and control of the network.

2. *Members.* The commission is composed of

five members appointed by the governor and subject to confirmation by the senate. Members of the commission shall not serve in any manner or be employed by an authorized user of the network or by an entity seeking to do or doing business with the network. The governor shall appoint a member as the chairperson of the commission from the five members appointed by the governor, subject to confirmation by the senate. Members of the commission shall serve six-year staggered terms as designated by the governor and appointments to the commission are subject to the requirements of sections 69.16, 69.16A, and 69.19. Vacancies shall be filled by the governor for the duration of the unexpired term. The salary of the members of the commission shall be twelve thousand dollars per year, except that the salary of the chairperson shall be seventeen thousand dollars per year. Members of the commission shall also be reimbursed for all actual and necessary expenses incurred in the performance of duties as members. Meetings of the commission shall be held at the call of the chairperson of the commission. In addition to the members appointed by the governor, the auditor of state or the auditor's designee shall serve as a nonvoting, ex officio member of the commission.

The benefits and salary paid to the members of the commission shall be adjusted annually equal to the average of the annual pay adjustments, expense reimbursements, and related benefits provided under collective bargaining agreements negotiated pursuant to chapter 20.

3. *Duties.* The commission shall do all of the following:

a. Enter into agreements pursuant to chapter 28E as necessary and appropriate for the purposes of the commission. However, the commission shall not enter into an agreement with an unauthorized user or any other person pursuant to chapter 28E for the purpose of providing such user or person access to the network.

b. Adopt rules pursuant to chapter 17A as deemed appropriate and necessary, and directly related to the implementation and administration of the duties of the commission. The commission, in consultation with the department of administrative services, shall also adopt and provide for standard communications procedures and policies relating to the use of the network which recognize, at a minimum, the need for reliable communications services.

c. Establish an appeal process for review by the commission of a scheduling conflict decision, including a scheduling conflict involving an educational user, or the establishment of a fee associated with the network upon the request of a person affected by such decision or fee. A determination made by the commission pursuant to this paragraph shall be final.

d. Review and approve for adoption, rules as proposed and submitted by an authorized user

group necessary for the authorized user group's access and use of the network. The commission may refuse to approve and adopt a proposed rule, and upon such refusal, shall return the proposed rule to the respective authorized user group proposing the rule with a statement indicating the commission's reason for refusing to approve and adopt the rule.

e. (1) Develop and issue for response all requests for proposals for any construction, installation, repair, maintenance, or equipment and parts necessary for the network. In preparing the request for proposals, the commission shall do all of the following:

(a) Review existing requests for proposals related to the network.

(b) Consider and evaluate all competing technologies which could be used in any construction, installation, repair, or maintenance project.

(c) Allow flexibility for proposals to be submitted in response to a request for proposals issued by the commission such that any qualified provider may submit a bid on a site-by-site basis, or on a merged area or defined geographic area basis, or both, and by permitting proposals to be submitted for use of competing or alternative technologies in each defined area.

(d) Ensure that rural communities have access to comparable services to the services provided in urban areas resulting from any plans to construct, install, repair, or maintain any part of the network.

(2) In determining which proposal to recommend to the general assembly to accept, consider what is in the long-term best interests of the citizens of the state and the network, and utilize, if possible, the provision of services with existing service providers consistent with those best interests. In determining what is in the long-term best interests of the citizens of the state and the network, the commission, at a minimum, shall consider the cost to taxpayers of the state.

(3) Deliver a written report and all proposals submitted in response to the request for proposals for Part III to the general assembly no later than January 1, 1995. The commission shall not enter into any agreement related to such proposals without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor.

f. Annually prepare a written five-year financial plan for the network which shall be provided to the general assembly and the governor no later than January 15 of each year. The plan shall include estimates for income and expenses for the network for the five-year period and the actual income and expenses for the preceding fiscal year. The plan shall include the amount of general fund appropriations to be requested for the payment of operating expenses and debt service. The plan shall also include any recommendations of the commission related to changes in the system and

other items as deemed appropriate by the commission. The recommendations of the commission contained in the plan shall include a detailed plan for the connection of all public schools to the network, including a discussion and evaluation of all potential financing options, an estimate of all costs incurred in providing such connections, and a schedule for completing such connections, including the anticipated final completion date for such connections.

g. Review existing maintenance contracts and past contracts to determine vendor capability to perform the obligations under such contracts. The commission shall report to the general assembly prior to January 1 of each year as to the performance of all vendors under each contract and shall make recommendations concerning continued funding for the contracts.

h. Pursue available opportunities to cooperate and coordinate with the federal government for the use and potential expansion of the network and for the financing of any such expansion.

i. Evaluate existing and projected rates for use of the system and ensure that rates are sufficient to pay for the operation of the system excluding the cost of construction and lease costs for Parts I, II, and III. The commission shall establish all hourly rates to be charged to all authorized users for the use of the network and shall consider all costs of the network in establishing the rates. A fee established by the commission to be charged to a hospital licensed pursuant to chapter 135B, a physician clinic, or the federal government shall be at an appropriate rate so that, at a minimum, there is no state subsidy related to the costs of the connection or use of the network related to such user.

j. Make recommendations to the general assembly, as deemed appropriate by the commission, concerning the operation of the network.

k. Provide necessary telecommunications cabling to provide state communications.

2005 Acts, ch 178, §39
Confirmation, see §2.32
Subsection 3, paragraph i amended

8D.9 Certification of use — network use by certain authorized users.

1. A private or public agency, other than a state agency, local school district or nonpublic school, city library, library service area, county library, judicial branch, judicial district department of correctional services, agency of the federal government, a hospital or physician clinic, or a post office authorized to be offered access pursuant to this chapter as of May 18, 1994, shall certify to the commission no later than July 1, 1994, that the agency is a part of or intends to become a part of the network. Upon receiving such certification from an agency not a part of the network on May 18, 1994, the commission shall provide for the connection of such agency as soon as practical. An

agency which does not certify to the commission that the agency is a part of or intends to become a part of the network as required by this subsection shall be prohibited from using the network.

2. *a.* A private or public agency which certifies to the commission pursuant to subsection 1 that the agency is a part of or intends to become a part of the network shall use the network for all video, data, and voice requirements of the agency unless the private or public agency petitions the commission for a waiver and one of the following applies:

(1) The costs to the authorized user for services provided on the network are not competitive with the same services provided by another provider.

(2) The authorized user is under contract with another provider for such services, provided the contract was entered into prior to April 1, 1994. The agency shall use the network for video, data, and voice requirements which are not provided pursuant to such contract.

(3) The authorized user has entered into an agreement with the commission to become part of the network prior to June 1, 1994, which does not provide for use of the network for all video, data, and voice requirements of the agency. The commission may enter into an agreement described in this subparagraph upon a determination that the use of the network for all video, data, and voice requirements of the agency would not be in the best interests of the agency.

b. A private or public agency shall petition the commission for a waiver of the requirement to use the network as provided in paragraph “a”, if the agency determines that paragraph “a”, subparagraph (1) or (2) applies. The commission shall establish by rule a review process for determining, upon application of an authorized user, whether paragraph “a”, subparagraph (1) or (2) applies. An authorized user found by the commission to be under contract for such services as provided in paragraph “a”, subparagraph (2), shall not enter into another contract upon the expiration of such contract, but shall utilize the network for such services as provided in this section unless paragraph “a”, subparagraph (1), applies.

3. A facility that is considered a public agency pursuant to section 8D.2, subsection 5, paragraph “b”, shall be authorized to access the Iowa communications network strictly for homeland security communication purposes and disaster communication purposes. Any utilization of the network that is not related to communications concerning homeland security or a disaster, as defined in section 29C.2, is expressly prohibited. Access under this subsection shall be available only if a state of disaster emergency is proclaimed by the governor pursuant to section 29C.6 or a homeland security or disaster event occurs requiring connection of disparate communications systems between public agencies to provide for a multiagency or multi-

jurisdictional response. Access shall continue only for the period of time the homeland security or disaster event exists. For purposes of this subsection, disaster communication purposes includes training and exercising for a disaster if public notice of the training and exercising session is posted on the website of the homeland security and emergency management division of the department of public defense. A scheduled and noticed training and exercising session shall not exceed five days. Interpretation and application of the provisions of this subsection shall be strictly construed.

4. A community college receiving federal funding to conduct first responder training and testing regarding homeland security first responder communication and technology-related research and development projects shall be authorized to utilize the network for testing purposes.

2005 Acts, ch 179, §52
Subsection 3 amended

8D.13 Iowa communications network.

1. Moneys in the Iowa communications network fund are appropriated to the Iowa telecommunications and technology commission for purposes of providing financing for the procurement, operation, and maintenance of the Iowa communications network with sufficient capacity to serve the video, data, and voice requirements of the educational telecommunications system consisting of Part I, Part II, and Part III, and other public and private agencies.

2. For purposes of this section, unless the context otherwise requires:

a. “*Part I*” means the communications connections between central switching and institutions under the control of the board of regents, nonprofit institutions of higher education eligible for tuition grants, and the regional switching centers for the remainder of the network.

b. “*Part II*” means the communications connections between the regional switching centers and the secondary switching centers.

c. “*Part III*” means the communications connection between the secondary switching centers and the agencies defined in section 8D.2, subsections 4 and 5, excluding state agencies, institutions under the control of the board of regents, nonprofit institutions of higher education eligible for tuition grants, and the judicial branch, judicial district departments of correctional services, hospitals and physician clinics, agencies of the federal government, and post offices.

3. The financing for the procurement costs for the entirety of Part I except for the communications connections between central switching and institutions under the control of the board of regents, and nonprofit institutions of higher education eligible for tuition grants, and for the video, data, and voice capacity for state agencies and for Part II and Part III, shall be provided by the state.

The financing for the procurement and maintenance costs for Part III shall be provided by the state. A local school board, governing authority of a nonpublic school, or an area education agency board may elect to provide one hundred percent of the financing for the procurement and maintenance costs for Part III to become part of the network. The basis for the amount of state financing is one hundred percent of a single interactive audio and interactive video connection for Part III, and such data and voice capacity as is necessary. If a school board, governing authority of a nonpublic school, or area education agency board elects to provide one hundred percent of the financing for the leasing costs for Part III, the school district or area education agency may become part of the network as soon as the network can reasonably connect the district or agency. A local school board, governing authority of a nonpublic school, or an area education agency board may also elect not to become part of the network. Construction of Part III, related to a school board, governing authority of a nonpublic school, or area education agency board which provides one hundred percent of the financing for the leasing costs for Part III, may proceed as determined by the commission and consistent with the purpose of this chapter.

4. The commission shall develop the requests for proposals that are needed for the Iowa communications network with sufficient capacity to serve the video, data, and voice requirements of state agencies and for educational telecommunications applications. The commission shall develop a request for proposals for each of the systems that will make up the network. The commission may develop a request for proposals for each definitive component of the network or the commission may provide in the request for proposals for each such system that separate contracts may be entered into for each definitive component covered by the request for proposals. The requests for proposals may be for the purchase, lease-purchase, or lease of the component parts of the network consistent with the provisions of this chapter, may require maintenance costs to be identified, and the resulting contract may provide for maintenance for parts of the network. The master contract may provide for electronic classrooms, satellite equipment, receiving equipment, studio and production equipment, and other associated equipment as required.

5. The state shall lease all fiberoptic cable facilities or facilities with DS-3 capacity for Part III connections for which state funding is provided. The state shall lease all fiberoptic cable facilities or facilities with DS-3 or DS-1 capacity for the judicial branch, judicial district department of correctional services, and state agency connections for which state funding is provided. Such facilities shall be leased from qualified providers. The state shall not own such facilities, except for

those facilities owned by the state as of January 1, 1994.

The lease provisions of this subsection do not apply to a school district which elects to provide one hundred percent of the financing for the district's connection.

6. It is the intent of the general assembly that during the implementation of Parts I and II of the system, the department of administrative services shall employ a consultant to report to it on the impact of changing technology on the potential cost and capabilities of the system. It is also the intent of the general assembly that the department of education shall study new techniques in distant teaching. These reports shall be made available to the general assembly.

7. The commission shall be responsible for the network design and shall be responsible for the implementation of each component of the network as it is incorporated into the network. The final design selected shall optimize the routing for all users in order to assure maximum utilization by all agencies of the state. Efficiencies achieved in the implementation of the network shall be used to fund further implementation and enhancement of the network, and shall be considered part of the operational cost of the network. The commission shall be responsible for all management, operations, control switching, diagnostics, and maintenance functions of network operations as provided in this chapter. The performance of these duties is intended to provide optimal utilization of the facilities, and the assurance that future growth requirements will be provided for, and that sufficient network capacity will be available to meet the needs of all users.

8. The education telecommunications council shall review all requests for grants for educational telecommunications applications, if they are a part of the Iowa communications network, to ensure that the educational telecommunications application is consistent with the telecommunications plan. All other grant requests shall be reviewed as determined by the commission. If the education telecommunications council finds that a grant request is inconsistent with the telecommunications plan, the grant request shall not be allowed.

9. The procurement and maintenance of electronic equipment including, but not limited to, master receiver antenna systems, studio and production equipment, and broadcast system components shall be provided for under the commission's contracts. The Iowa public broadcasting board and other educational entities within the state have the option to use their existing or replacement resources and agreements in the operation and maintenance of these systems.

10. In addition to the other evaluation criteria specified in the request for proposals issued pursuant to this section, the commission, in evaluating proposals, shall base up to two percent of the

total possible points on the public benefit that can be derived from a given proposal due to the increased private telecommunications capacity available to Iowa citizens located in rural Iowa. For purposes of this subsection, an area of the state is considered rural if it is not part of a federally designated standard metropolitan statistical area.

11. The fees charged for use of the network and state communications shall be based on the ongoing expenses of the network and of providing state communications. For the services rendered to state agencies by the commission, the commission shall prepare a statement of services rendered and the agencies shall pay in a manner consistent with procedures established by the department of administrative services.

12. The commission, on its own or as recommended by an advisory committee of the commission and approved by the commission, shall permit a fee to be charged by a receiving site to the originator of the communication provided on the network. The fee charged shall be for the purpose of recovering the operating costs of a receiving site. The fee charged shall be reduced by an amount received by the receiving site pursuant to a state appropriation for such costs, or federal assistance received for such costs. Fees established under this subsection shall be paid by the originator of the communication directly to the receiving site. In the event that an entity requests a receiving site location in a video classroom facility which is authorized by, but not funded by, the originator of the communication, the requesting entity shall be directly billed by the video classroom facility for operating costs relating to the communication. For purposes of this section, "*operating costs*" include the costs associated with the management or coordination, operations, utilities, classroom, equipment, maintenance, and other costs directly related to providing the receiving site.

13. The auditor of state shall, no less than annually, examine the financial condition and transactions of the commission as provided in chapter 11. A copy of the auditor's report concerning such examination shall be provided to the general assembly.

14. Access to the network shall be offered on an equal basis to public and private agencies under subsection 8 if the private agency contributes an amount toward the match requirement comparable to its share of use for the part of the system in which it participates.

15. Access to the network shall be offered to the judicial district departments of correctional services established in section 905.2, provided that such departments contribute an amount consistent with their share of use for the part of the system in which the departments participate, as determined by the commission.

16. Access shall be offered to hospitals licensed pursuant to chapter 135B and physician

clinics for diagnostic, clinical, consultative, data, and educational services for the purpose of developing a comprehensive, statewide telemedicine network, to an agency of the federal government, and to a post office defined as a public agency pursuant to section 8D.2, subsection 5. A hospital, physician clinic, an agency of the federal government, or a post office defined as a public agency pursuant to section 8D.2, subsection 5, shall be responsible for all costs associated with becoming a part of the network.

17. Access shall be offered to the judicial branch provided that the judicial branch contributes an amount consistent with the judicial branch's share of use for the part of the network in which the judicial branch participates, as determined by the commission.

18. Notwithstanding chapter 476, the provisions of chapter 476 shall not apply to a public util-

ity in furnishing a telecommunications service or facility to the commission for the Iowa communications network or to any authorized user of the Iowa communications network for such authorized user's connection to the network.

19. Access to the network shall be offered to the department of public safety and the department of public defense for the purpose of establishing and operating a shared data-only network providing law enforcement, emergency management, disaster service, emergency warning, and other emergency information dissemination services to federal, state, and local law enforcement agencies as provided in section 80.9, and local emergency management offices established under the authority of sections 29C.9 and 29C.10.

2005 Acts, ch 178, §40

See Iowa Acts for provisions relating to appropriations for network costs in a given year

Subsection 11 amended

CHAPTER 9E

NOTARIAL ACTS

9E.12 Notarial acts under federal authority.

1. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if the notarial act is performed anywhere by any of the following persons under authority granted by the law of the United States:

- a. A judge, clerk, or deputy clerk of a court.
- b. A commissioned officer on active duty in the military service of the United States.
- c. An officer of the foreign service or consular officer of the United States.
- d. Any other person authorized by federal law to perform notarial acts.

2. The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

3. The signature and indicated title of an officer listed in subsection 1, paragraph "a", "b", or "c", conclusively establish the authority of a holder of that title to perform a notarial act.

4. A certificate of a notarial act on an instrument to be recorded must also comply with the requirements of section 331.606B.

2005 Acts, ch 19, §11

Subsection 4 amended

CHAPTER 9H

CORPORATE OR PARTNERSHIP FARMING

9H.1 Definitions.

For the purposes of this chapter:

1. "*Actively engaged in farming*" means that a natural person who is a shareholder and an officer, director or employee of the corporation or who is a member or manager of the limited liability company either:

- a. Inspects the production activities periodically and furnishes at least half of the value of the tools and pays at least half the direct cost of production; or
- b. Regularly and frequently makes or takes an important part in making management decisions substantially contributing to or affecting the suc-

cess of the farm operation; or

c. Performs physical work which significantly contributes to crop or livestock production.

2. "*Agricultural land*" means land suitable for use in farming.

3. "*Authorized farm corporation*" means a corporation other than a family farm corporation founded for the purpose of farming and the ownership of agricultural land in which:

- a. The stockholders do not exceed twenty-five in number; and
- b. The stockholders are all natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations.

4. “*Authorized limited liability company*” means a limited liability company other than a family farm limited liability company founded for the purpose of farming and the ownership of agricultural land in which all of the following apply:

a. The members do not exceed twenty-five in number.

b. The members are all natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations.

5. “*Authorized trust*” means a trust other than a family trust in which:

a. The beneficiaries do not exceed twenty-five in number; and

b. The beneficiaries are all natural persons, who are not acting as a trustee or in a similar capacity for a trust as defined in subsection 22 of this section, or persons acting in a fiduciary capacity, or nonprofit corporations; and

c. Its income is not exempt from taxation under the laws of either the United States or the state of Iowa.

6. “*Beneficial ownership*” includes interests held by a nonresident alien individual directly or indirectly holding or acquiring a ten percent or greater share in the partnership, limited partnership, corporation, limited liability company, or trust, or directly or indirectly through two or more such entities. In addition, the term beneficial ownership shall include interests held by all nonresident alien individuals if the nonresident alien individuals in the aggregate directly or indirectly hold or acquire twenty-five percent or more of the partnership, limited partnership, corporation, limited liability company, or trust.

7. “*Corporation*” means a domestic or foreign corporation subject to chapter 490, a nonprofit corporation, or a cooperative.

8. “*Family farm corporation*” means a corporation:

a. Founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related;

b. All of its stockholders are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts as defined in subsection 11 of this section; and

c. Sixty percent of the gross revenues of the corporation over the last consecutive three-year period comes from farming.

9. “*Family farm limited liability company*” means a limited liability company which meets all of the following conditions:

a. The limited liability company is founded for

the purpose of farming and the ownership of agricultural land in which the majority of the members are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.

b. All of the members of the limited liability company are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.

c. Sixty percent of the gross revenues of the limited liability company over the last consecutive three-year period comes from farming.

10. “*Family farm limited partnership*” means a limited partnership which meets all of the following conditions:

a. The limited partnership is formed for the purpose of farming and the ownership of agricultural land in which the general partner and a majority of the partnership interest is held by and the majority of limited partners are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.

b. The general partner manages and supervises the day-to-day farming operations on the agricultural land.

c. All of the limited partners are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.

d. Sixty percent of the gross revenues of the partnership over the last consecutive three-year period comes from farming.

11. “*Family trust*” means a trust:

a. In which a majority interest in the trust is held by and the majority of the beneficiaries are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related; and

b. In which all the beneficiaries are natural persons, who are not acting as a trustee or in a similar capacity for a trust, as defined in subsection 22 of this section, or persons acting in a fiduciary capacity, or nonprofit corporations; and

c. If the trust is established on or after July 1, 1988, the trust must be established for the purpose of farming and sixty percent of the gross revenues of the trust over the last consecutive three-year period must come from farming.

12. “*Farming*” means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horti-

cultural crops, grazing or the production of livestock. Farming shall not include the production of timber, forest products, nursery products, or sod and farming shall not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

13. “*Fiduciary capacity*” means an undertaking to act as executor, administrator, personal representative, guardian, conservator or receiver.

14. “*Grantor*” means a natural person, other than a nonresident alien as defined under this section, who is the creator of a revocable trust or a trust.

15. “*Indirect*” means to act or attempt to accomplish an act through an interest in a business association, through one or more affiliates or intermediaries, or by any method other than a direct approach, including by any circuitous or oblique method.

16. “*Limited liability company*” means a limited liability company as defined in section 490A.102.

17. “*Limited partnership*” means a limited partnership as defined in section 488.102, or a limited liability limited partnership under chapter 488, which owns or leases agricultural land or is engaged in farming.

18. “*Nonprofit corporation*” means:

a. Corporations organized under the provisions of chapter 504, Code 1989, or current chapter 504; or

b. Corporations which qualify under Title 26, section 501(c)(3) of the United States Code.

19. “*Nonresident alien*” means:

a. An individual who is not a citizen of the United States and who is not domiciled in the United States.

b. A corporation incorporated under the law of any foreign country.

c. A corporation organized in the United States, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.

d. A trust organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.

e. A partnership or limited partnership organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.

f. A limited liability company organized in the United States or elsewhere, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.

20. “*Revocable trust*” means a trust which provides that the grantor retains the power to amend, modify, or revoke the trust at any time prior to the death of the grantor, regardless of whether, subsequent to the execution of the revocable trust and

at any time prior to death, the grantor is legally competent to exercise the power to amend, modify, or revoke the trust and regardless of when the trust is created.

21. “*Testamentary trust*” means a trust created by devising or bequeathing property in trust in a will as such terms are used in the Iowa probate code as provided in chapter 633A. Testamentary trust includes a revocable trust that has not been revoked prior to the grantor’s death.

22. “*Trust*” means a fiduciary relationship with respect to property, subjecting the person by whom the property is held to equitable duties to deal with the property for the benefit of another person, which arises as a result of a manifestation of an intention to create it. Trust does not include a person acting in a fiduciary capacity, as defined in subsection 13, or a revocable trust. A trust includes a legal entity holding property as trustee, agent, escrow agent, attorney in fact, and in any similar capacity.

2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §351, 400; 2005 Acts, ch 38, §55

Former subsections 6, 8 – 13, 22, 27 – 29, 31, and 32 transferred to §202B.102 in Code Supplement 2003 pursuant to directive in 2003 Acts, ch 115, §16, 19

New subsection 26A, enacted in 2003 Acts, ch 115, §1, transferred to §202B.102 in Code Supplement 2003 pursuant to directive in 2003 Acts, ch 115, §16, 19

2004 amendment to subsection 17 takes effect January 1, 2006; 2004 Acts, ch 1175, §351, 400

Internal reference change applied

Chapter 504A reference stricken effective July 1, 2005, pursuant to Code editor directive; 2004 Acts, ch 1049, §191

Code editor directive applied

Subsection 17 amended

9H.4 Restriction on increase of holdings — exceptions — penalty.

A corporation, limited liability company, or trust, other than a family farm corporation, authorized farm corporation, family farm limited liability company, authorized limited liability company, family trust, authorized trust, revocable trust, or testamentary trust shall not, either directly or indirectly, acquire or otherwise obtain or lease any agricultural land in this state. However, the restrictions provided in this section shall not apply to the following:

1. A bona fide encumbrance taken for purposes of security.

2. Agricultural land acquired for research or experimental purposes. Agricultural land is used for research or experimental purposes if any of the following apply:

a. Research and experimental activities are undertaken on the agricultural land and commercial sales of products produced from farming the agricultural land do not occur or are incidental to the research or experimental purposes of the corporation or limited liability company. Commercial sales are incidental to the research or experimental purposes of the corporation or limited liability company when such sales are less than twenty-

five percent of the gross sales of the primary product of the research.

b. The agricultural land is used for the primary purpose of testing, developing, or producing seeds or plants for sale or resale to farmers as seed stock. Grain which is not sold as seed stock is an incidental sale and must be less than twenty-five percent of the gross sales of the primary product of the research and experimental activities.

c. The agricultural land is used by a corporation or limited liability company, including any trade or business which is under common control, as provided in 26 U.S.C. § 414 for the primary purpose of testing, developing, or producing animals for sale or resale to farmers as breeding stock. However, after July 1, 1989, to qualify under this paragraph, the following conditions must be satisfied:

(1) The corporation or limited liability company must not hold the agricultural land other than as a lessee. The term of the lease must be for not more than twelve years. The corporation or limited liability company shall not renew a lease. The corporation or limited liability company shall not enter into a lease under this paragraph, if the corporation or limited liability company has ever entered into another lease under this paragraph "c", whether or not the lease is in effect. However, this subparagraph does not apply to a domestic corporation organized under chapter 504, Code 1989, or current chapter 504.

(2) A term or condition of sale, including resale, of breeding stock must not relate to the direct or indirect control by the corporation or limited liability company of the breeding stock or breeding stock progeny subsequent to the sale.

(3) The number of acres of agricultural land held by the corporation or limited liability company must not exceed six hundred forty acres.

(4) The corporation or limited liability company must deliver a copy of the lease to the secretary of state. The secretary of state shall notify the lessee of receipt of the copy of the lease. However, this subparagraph does not apply to a domestic corporation organized under chapter 504, Code 1989, or current chapter 504.

Culls and test animals may be sold under this paragraph "c". For a three-year period beginning on the date that the corporation or limited liability company acquires an interest in the agricultural land, the gross sales for any year shall not be greater than five hundred thousand dollars. After the three-year period ends, the gross sales for any year shall not be greater than twenty-five percent of the gross sales for that year of the breeding stock, or five hundred thousand dollars, whichever is less.

3. Agricultural land, including leasehold interests, acquired by a nonprofit corporation orga-

nized under the provisions of chapter 504, Code 1989, and current chapter 504 including land acquired and operated by or for a state university for research, experimental, demonstration, foundation seed increase or test purposes and land acquired and operated by or for nonprofit corporations organized specifically for research, experimental, demonstration, foundation seed increase or test purposes in support of or in conjunction with a state university.

4. Agricultural land acquired by a corporation or limited liability company for immediate or potential use in nonfarming purposes.

5. Agricultural land acquired by a corporation or limited liability company by process of law in the collection of debts, or pursuant to a contract for deed executed prior to August 15, 1975, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

6. A municipal corporation.

7. Agricultural land which is acquired by a trust company or bank in a fiduciary capacity or as trustee for a family trust, authorized trust or testamentary trust or for nonprofit corporations.

8. A corporation or its subsidiary organized under chapter 490 or a limited liability company organized under chapter 490A and to which section 312.8 is applicable.

9. Agricultural land held or leased by a corporation on July 1, 1975, as long as the corporation holding or leasing the land on this date continues to hold or lease such agricultural land.

10. Agricultural land held or leased by a trust on July 1, 1977, as long as the trust holding or leasing such land on this date continues to hold or lease such agricultural land.

11. Agricultural land acquired by a trust for immediate use in nonfarming purposes.

A corporation, limited liability company, or trust, other than a family farm corporation, authorized farm corporation, family farm limited liability company, authorized limited liability company, family trust, authorized trust, revocable trust, or testamentary trust, violating this section shall be assessed a civil penalty of not more than twenty-five thousand dollars and shall divest itself of any land held in violation of this section within one year after judgment. The courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this section.

2004 Acts, ch 1049, §191

Exception to restrictions for cooperative corporations organized under chapter 501; requirements; see §501.103

Chapter 504A references stricken effective July 1, 2005, pursuant to Code editor directive; 2004 Acts, ch 1049, §191

Code editor directive applied